

MATRIX OF FINANCIAL SERVICES REGULATORY RELIEF PROPOSALS
– SECTION I –
REGULATORS’ PROPOSALS SUPPORTED BY LEGISLATIVE LANGUAGE
The failure to state a position on these items should not be interpreted to mean support or opposition to any of the suggested concepts.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators’ Position	Industry’s & Consumer Groups’ Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
Governor Donald Kohn /Board of Governors of the Federal Reserve System (FRB)		
1. Interest on Reserves (H.R. 1224) Authorize the payment of interest on balances held by depository institutions at a Federal reserve bank. (Similar proposals by ACB and ABA)	Support: CSBS, FDIC, FRB, NCUA, OCC, OTS	Support: ABA, ACB ¹ , CUNA, FSR ² , ICBA, NAFCU ³
2. Reserve Requirement Flexibility (H.R. 1224) Provide the Federal Reserve with greater flexibility to set the ratio of reserves a depository institution must maintain against its transaction accounts, allowing a zero reserve ratio, if appropriate. (Similar proposal by ACB)	Support: CSBS, FDIC, FRB, NCUA, OCC, OTS	Support: ABA, ACB ⁴ , CUNA, FSR, ICBA, NAFCU ⁵
3. Interest on Demand Deposits (H.R. 1224) Repeal the provisions prohibiting depository institutions from paying interest on demand deposits. (Similar proposals by ACB, NFIB, Mr. Pinto (Lenders Residential Asset Company LLC), as well as ICBA (modified along lines of interstate branching language in H.R. 1375))	Support: CSBS, FDIC ⁶ , FRB, OCC, OTS	Support: ABA ⁷ , ACB ⁸ Opposed: FSR, ICBA ⁹ , CFOA/NCLC ¹⁰

¹ ACB supports the related provisions of H.R. 758 and Title VII of H.R. 1375 adopted by the House.
² FSR supports it only in conjunction with legislation to pay interest on corporate checking accounts.
³ NAFCU supports provided that the language of these provisions is similar to the language in this year’s House-passed bill H.R. 1224.
⁴ ACB supports the related provisions of H.R. 758 and Title VII of H.R. 1375 adopted by the House.
⁵ NAFCU supports provided that the language of these provisions is similar to the language in this year’s House-passed bill H.R. 1224.
⁶ FDIC supports the repeal of the prohibition against the payment of interest on demand deposits, so long as industrial loan corporations are given parallel authority.
⁷ ABA supports it with a phase in and LLC compromise (see H.R.1375 branching language).
⁸ ACB supports the related provisions of H.R. 1224, as adopted by the House FSC, which provide for business NOW accounts for certain LLCs – those owned by financial companies and certain grandfathered LLCs.
⁹ ICBA supports a 24-transfer per month compromise and opposes any new authority for LLCs.
¹⁰ CFOA and NCLC are opposed. Expansion of industrial loan companies is dangerous to the banking system and to taxpayers.

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John M. Reich/Federal Deposit Insurance Corporation (FDIC)			
4. Reporting Requirements Relating to Insider Lending – (H.R. 3505 § 403) (See also #111) Repeal the requirements that - <ul style="list-style-type: none">• executive officers of banks report to their board of directors indebtedness to other banks;• each bank must update its report of covered loans to executive officers as of each report of condition; and,• executive officers and principal shareholders report to their board of directors loans from correspondent banks. (Similar proposals by ACB, ICBA, FSR)		Support: FDIC, FRB, OCC, OTS	Support: ABA, ACB, FSR, ICBA
5. Streamlining Depository Institution Merger Application Requirements – (H.R. 3505 § 610) Eliminates the requirement that the responsible agency request a competitive factors report from the other Federal banking agencies. Requires the responsible agency to request a report from the Attorney General and provide a copy of the request to the FDIC (when the FDIC is not the responsible agency).		Support: FDIC, FRB, OCC, OTS	Support: ABA, ACB, FSR, ICBA
6. Shorten the Post-Approval Waiting Period on Bank Mergers and Acquisitions Where There are No Adverse Affects on Competition – (H.R. 1375 § 609 as introduced) (Not in newly introduced House bill) Allows the post-approval waiting periods under the Bank Merger Act and Bank Holding Company Act to be reduced to as few as 5 days with the concurrence of the responsible agency and the Attorney General.		Support: FDIC, FRB, OCC, OTS	Support: ABA, ACB, FSR, Oppose: CG
7. Repeal CRA Sunshine Law Repeal entirely the CRA Sunshine disclosure and annual reporting requirements (Section 48 of the FDI Act, 12 U.S.C. § 1831y) requiring insured depository institutions or affiliates and nongovernmental entities or persons that are parties to agreements providing payments or other consideration in excess of \$10,000 or for loans exceeding \$50,000 made pursuant to, or in connection with, the fulfillment of the CRA to disclose all such covered agreements to the public and the appropriate Federal banking agency and file an annual report concerning the agreements with the appropriate Federal banking agency.		Support: FDIC, FRB, OCC, OTS	Support: ABA, ACB, FSR, CG Neutral: ICBA

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JoAnn Johnson/National Credit Union Administration (NCUA)			
8. Prompt Corrective Action: Risk-Based Net Worth (H.R. 3579 § 301) Establish a system for determining risk-based net worth (i.e., capital) for purposes of prompt corrective action.	Support: NCUA, NASCUS	Support: CUNA, NAFCU ¹¹	Oppose: ABA, ICBA
(Similar proposals by CUNA and NAFCU)			
9. Check Cashing and Money Transfer Services Offered within the Field of Membership (H.R. 3505 § 307, H.R. 749, and similar legislation is also pending in the Senate, S. 1359 and S. 1344) Expand current check selling and cashing authority to persons eligible for membership, and further allow Federal credit unions to receive EFTs for anyone eligible to become a member.	Support: NCUA	Support: CUNA, NAFCU, CFOA/NCLC, CG	Oppose: ABA, ICBA
(Similar proposals by CUNA, Consumer Groups, NAFCU)			
10. Eliminate 12-Year Limitation of Term of Federal Credit Union Loans – (similar to H.R. 3505 § 304 and H.R. 3579 § 104 also found in Section 303 of H.R. 2317) Eliminate 12-year maturity limitation on Federal credit union loans, authorizing the NCUA Board to promulgate rules regarding loan maturity limits as necessary for safety and soundness.	Support: NCUA	Support: CUNA, NAFCU Neutral: ABA, ICBA Oppose: ACB ¹²	
(Similar proposals by CUNA, NAFCU)			
11. Increase in 1 Percent Investment Limit in Credit Union Service Organizations – (H.R. 3505 § 305 and H.R. 3579 § 105 also found in Section 304 of H.R. 2317) Raise the aggregate limit for Federal credit unions' investment in CUSOs from 1% to 3% of shares and undivided earnings in such organizations.	Support: NCUA	Support: CUNA, NAFCU Oppose: ABA, ICBA	
(Similar proposals by CUNA and NAFCU; See also # 131 for a related NAFCU proposal)			

¹¹ NAFCU supports and recommends the language found in Title I of H.R. 2317 as introduced in the House in the 109th Congress.

¹² ACB understands the NCUA proposal would allow the NCUA to set maturity dates. ACB supported passage of H.R. 1375 because it, on the whole, benefited community banks. However, ACB does not support many provisions of H.R. 1375 outside the context of a balanced bill.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's & Consumer Groups' Positions
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JoAnn Johnson/National Credit Union Administration (NCUA) - continued		
12. Investments by Federal Credit Unions – (H.R. 3505 § 303 and H.R. 3579 § 103 also found in Section 302 of H.R. 2317) Provide Federal credit unions with additional authority to purchase debt obligations for investment purposes, subject to statutory guidelines and investment grade and percentage limitations, as approved by regulation of the NCUA Board.	Support: NCUA	Support: CUNA, NAFCU Does not Support: ABA Neutral: ICBA
(Similar proposals by CUNA, NAFCU)		
13. Voluntary Merger Authority – (H.R. 3505 § 308 and H.R. 3579 § 108 also found in Section 306 of H.R. 2317) No longer require NCUA to consider spin-offs of groups greater than 3,000 when reviewing and approving voluntary mergers of multiple common bond Federal credit unions.	Support: NCUA	Support: CUNA, NAFCU Oppose: ABA, ACB, ICBA
(Similar proposals by CUNA, NAFCU)		
14. Treatment of Credit Unions as Depository Institution Under Securities Laws – (H.R. 3505 § 313 and H.R. 3579 § 115 also found in Section 312 of H.R. 2317) Exempt federally insured credit unions from the requirement to register with the SEC as broker-dealers when engaging in certain <u>de minimis</u> securities activities.	Support: NCUA, NASCUS	Support: CUNA, NAFCU Oppose: ABA, ICBA
(Similar proposals by NASCUS, CUNA, NAFCU)		
15. Qualified Financial Contracts – (P.L. 109-8) Identifies and provides standards for treatment of qualified financial contracts (QFCs) by a receiver or conservator of an insured financial bank or credit union to avoid destabilization of derivatives market by post-failure repudiation of QFCs.	Support: NCUA	Support: ABA, CUNA, ICBA, NAFCU
16. Leases of Land on Federal Facilities for Credit Unions – (H.R. 3505 § 302 and H.R. 3579 § 102 also found in Section 301 of H.R. 2317) Give military and civilian authorities responsible for buildings erected on Federal property the discretion to extend to credit unions that finance the construction of credit union facilities on Federal land real estate leases at minimal charge. (Similar proposals by CUNA, NAFCU)	NCUA has no safety and soundness concerns	Support: CUNA, NAFCU Oppose: ICBA Does not Support: ABA

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(Similar proposals by other witnesses noted to the extent given in their testimony)		
JoAnn Johnson/National Credit Union Administration (NCUA) - continued		
17. Member Business Loan Exclusion for Loans to Non-Profit Religious Organizations – (H.R. 3505 § 306 and H.R. 3579 § 106 also found in Section 204 of H.R. 2317) Exclude loans to nonprofit religious organizations from the member business loan limit.	Support: NCUA, NASCUS	Support: CUNA, NAFCU Oppose: ABA, ACB, ICBA
(Similar proposals by CUNA, NAFCU)		
18. Conversions Involving Common-Bond Credit Unions – (H.R. 3505 § 309 and H.R. 3579 § 109 also found in Section 307 of H.R. 2317) In a voluntary conversion of a common-bond credit union into a community credit union, require the NCUA Board to prescribe by regulations criteria under which the Board may determine that a portion of a credit union's existing membership located outside the community can be satisfactorily served by the converting credit union and remain with the field of membership.	Support: NCUA	Support: CUNA, NAFCU ¹³ Oppose: ABA, ACB, ICBA
(Similar proposals by CUNA, NAFCU)		
19. Credit Union Governance – (H.R. 3505 § 310 and H.R. 3579 § 110) (See #132 also found in Section 308 of H.R. 2317) Expand the bases for expulsion to encompass "just cause," which includes disruption of credit union operations, as well as nonparticipation by a member in the affairs of the credit union. Also, allows a Federal credit union's bylaws to limit the number of consecutive terms any person may serve on the board of directors, and provides that reimbursement for lost wages due to service on the credit union's board will not be treated as compensation.	NCUA has no safety and soundness concerns	Support: ABA, CUNA, ICBA, NAFCU
(Similar proposals by CUNA, NAFCU)		
20. Providing the NCUA with Greater Flexibility in Responding to Market Conditions – (H.R. 3505 § 311 and H.R. 3579 § 111 also found in Section 309 of H.R. 2317) In determining whether to lift the usury ceiling for Federal credit unions, allow the NCUA Board to consider rising interest rates or whether prevailing interest rate levels threaten the safety and soundness of individual credit unions.	Support: NCUA	Support: CUNA, NAFCU No Position: ABA Neutral: ICBA
(Similar proposals by CUNA, NAFCU)		

¹³ NAFCU supports and recommends the language found in Section 307 of H.R. 2317.

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<p>(Similar proposals by other witnesses noted to the extent given in their testimony) JoAnn Johnson/National Credit Union Administration (NCUA) - continued</p>		
<p>21. Exemption from Pre-merger Notification Requirement of the Clayton Act – (H.R. 3505 § 312 and H.R. 3579 § 114 also found in Section 311 of H.R. 2317) Exempt federally-insured credit unions from the pre-merger notification requirements, giving them parity with banks and thrifts.</p>	<p>Support: NCUA, NASCUS</p>	<p>Support: CUNA, NAFCU No Position: ABA</p>
<p>(Similar proposals by CUNA, NAFCU; NASCUS supports expanding proposal to include all State-chartered credit unions) 22. Privately Insured Credit Unions Authorized to Become Members of a Federal Home Loan Bank – (H.R. 3505 § 301) Permit certain privately insured credit unions to become members.</p>	<p>Support: NASCUS No Position : NCUA</p>	<p>Support: CUNA, NAFCU Oppose: ABA, ACB, ICBA, CG</p>
<p>(Similar proposal by CUNA) 23. Technical Corrections – (H.R. 3505 § 802) Make several technical corrections to the FCUA.</p>	<p>Support: NCUA</p>	<p>Support: CUNA, NAFCU Neutral: ICBA No Position: ABA</p>
<p>24. Redefinition of Regulatory Capital Necessitated by an Accounting Rule Change – (H.R. 3505 § 314 & H.R. 1042) (Same as #167) Redefine regulatory capital to address unintended consequence of impending FASB rule change. The new FASB rule would apply purchase accounting to credit union mergers with the unintended result that the merging credit union's capital would not flow forward as capital to the combined continuing credit union (pre-merger "retained earnings" (capital) becomes post-merger "acquired equity" (not capital)). To follow both the new FASB rule while still allowing the capital of both credit unions to flow forward as regulatory capital and thus preserve the incentive for desirable credit union mergers, the redefinition of regulatory capital for purposes of prompt corrective action is necessary. The FASB is supportive of a legislative solution and is comfortable that a legislative solution will not impact their standards-setting activities.</p>	<p>Support: NCUA, NASCUS</p>	<p>Support: CUNA, NAFCU¹⁴ Oppose: ABA Against: ICBA</p>
<p>(Similar proposals by CUNA and NAFCU)</p>		

¹⁴ NAFCU supports but prefers inclusion of the text of H.R. 1042, which uses the term "net worth" as that more accurately reflects the issue than the term "regulatory capital."

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JoAnn Johnson/National Credit Union Administration (NCUA) - continued			
25. Vendor Examinations Permit NCUA examination of third-party vendors that provide data processing and other related services to insured credit unions.		Support: NCUA, NASCUS	Support: ABA, ACB, ICBA Oppose: CUNA ¹⁵ , NAFCU
Julie Williams/Office of the Comptroller of the Currency (OCC)			
26. Repealing State Opt-In Requirements for De Novo Branching – (H.R. 3505 § 401 as introduced) Remove restrictions on national and State banks' <u>de novo</u> interstate branching by repealing the State opt-in requirement before an out-of-state bank can branch into that State. Eliminates the 5-year age restriction on interstate bank mergers.		Support: CSBS, FDIC ¹⁶ , OCC ¹⁷ Oppose: FRB ¹⁸	Support: ABA ¹⁹ , ACB ²⁰ , FSR, Against: ICBA Oppose: CFOA/NCLC ²¹ , CG
(Similar proposals by ACB, ICBA, FSR)			
27. Providing Relief for Subchapter S National Banks – (H.R. 1375 § 101) Permit the OCC to allow the use of a debt instrument that is subordinated to other liabilities of the bank to satisfy the qualifying shares requirement by directors of national banks operating or seeking to operate in subchapter S form. Such a subordinated debt instrument would be closely equivalent to an equity capital interest, as the directors could only be repaid if other claims of depositors and nondeposit creditors of the bank (including the FDIC) were first paid in full, and would also ensure that directors retain their personal stake in the financial soundness of the bank.		Support: FDIC, OCC No Position: OTS	Support: ABA, ACB, FSR, ICBA

¹⁵ CUNA is opposed to providing the NCUA with vendor examination authority.

¹⁶ The FDIC supports repeal of the state opt-in requirements for de novo interstate branching, so long as industrial loan corporations are given parallel authority.

¹⁷ The OCC supports the removal of the restrictions on interstate de novo branching and the repeal of the state age requirement. The OCC takes no position other provisions in section 401 of the House-passed bill H.R. 3505. In other words, OCC supports repealing the applicable restrictions for national banks. The OCC takes no position on repealing the restrictions for any other type of bank charter.

¹⁸ While the FRB generally supports granting insured banks the right to branch de novo on an interstate basis, the FRB opposes amendments, such as those reflected in section 401 of H.R. 1375, that would grant interstate branching rights to industrial loan companies whose corporate owners are not subject to the consolidated supervision and activity restrictions that apply to the corporate owners of other insured banks under the Bank Holding Company Act.

¹⁹ ABA supports with ILIC fix (see H.R. 1375 provisions, as adopted).

²⁰ ACB supports Sec. 401 of H.R. 1375, which, in addition to commercial banks, applies to ILICs owned by financial companies and certain grandfathered ILICs.

²¹ CFOA and NCLC are opposed. Expansion of industrial loan companies is dangerous to the banking system and to taxpayers.

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(Similar proposals by other witnesses noted to the extent given in their testimony) Julie Williams/Office of the Comptroller of the Currency (OCC) - continued		
28. Resolving Ambiguities in Federal Court Jurisdiction – (similar to H.R. 3505 § 213 which applies only to Federal thrifts) (See #58 & 184) Expressly provide that a national bank is only a citizen of the State in which its main office is located so that all federally chartered depository institutions that are not incorporated in any State will be treated the same for purposes of determining diversity jurisdiction.	Support: FDIC, OTS ²² Does Not Support: OCC ²³ Oppose: CSBS	Support: ABA, ACB, FSR Oppose: CFOA/NCLC ²⁴ , CG
29. Modernizing Corporate Governance – (H.R. 3505 § 102) Permit a national bank to provide in its articles of association which method of electing its directors best suits its business goals and needs -- a national bank could choose whether to allow cumulative voting, which is mandated by the current law.	Support: FDIC, OCC No Position: OTS	Support: ABA, ACB, FSR, ICBA
30. Modernizing Corporate Structure Options – (H.R. 3505 § 109) Allow the OCC to prescribe regulations that would permit a national bank to be organized other than as a body corporate and to provide requirements for the organizational characteristics of such national banks consistent with safety and soundness. Generally, all national banks would continue to have the same rights and be subject to the same restrictions and requirements. This would allow a national bank to organize as a limited liability company, which may have tax advantages and may be particularly attractive for community banks.	Support: FDIC, OCC Oppose: CSBS No Position: OTS	Support: ABA, ACB, FSR, ICBA
31. Simplifying Dividend Calculations for National Banks – (H.R. 3505 § 103) (See also # 81, #117) Provide more flexibility than current law to a national bank to pay dividends as deemed appropriate by its board of directors. Consistent with safety and soundness, the amendment retains the current requirements that OCC approval is necessary if the dividend exceeds a certain amount. These same dividend approval requirements also apply to State member banks except the FRB and not the OCC is the approval authority. (Similar proposal by FSR)	Support: FDIC, FRB, OCC No Position: OTS	Support: ABA, ACB, FSR, ICBA

²² OTS supports but only with #58.

²³ OCC withdraws its support. In light of the recent U.S. Supreme Court decision resolving the issues concerning national banks' citizenship for purposes of federal court diversity jurisdiction, such an amendment is no longer needed.

²⁴ CFOA and NCLC are opposed. Allowing virtually unlimited diversity jurisdiction in federal courts for national banks and federal thrifts is a bad idea.

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(Similar proposals by other witnesses noted to the extent given in their testimony)		
Julie Williams/Office of the Comptroller of the Currency (OCC) - continued		
32. Repealing Obsolete Limitations on the OCC's Removal Authority – (H.R. 3505 § 104) Give OCC the same removal authority as the other banking agencies to remove an institution-affiliated party (IAP) from the banking business.	Support: FDIC, FRB, NCUA, OCC, OTS	Support: ABA, ACB, FSR, ICBA
33. Repealing Obsolete Intrastate Branch Capital Requirements – (H.R. 3505 § 105) Eliminate the obsolete requirement that a national bank establishing an intrastate branch must meet the capital requirements imposed by the State on State banks seeking to establish intrastate branches.	Support: FDIC, OCC No Position: OTS	Support: ABA, ACB, FSR Neutral: ICBA
34. Clarifying the Waiver of Publication Requirements for Bank Merger Notices – (H.R. 3505 § 106) Clarify that the requirement to publish a notice for shareholders about an impending merger may be waived by the OCC in emergency situations <u>or</u> by unanimous vote of the shareholders (technical amendment).	Support: FDIC, OCC No Position: OTS	Support: ABA, ACB, FSR, ICBA
35. Repealing Obsolete References to the Main Place of Business of a National Bank – (H.R. 3505 § 110) Replace obsolete language with the modern term “main office” (technical amendment)	Support: FDIC, OCC No Position: OTS	Support: ABA, ACB, FSR, ICBA Oppose: CG
36. Deleting Obsolete Language in the National Bank Act Delete references to two obsolete provisions regarding capital requirements, but would make no changes to the requirements that a national bank cannot reduce its capital unless approved by two-thirds of its shareholders and by the OCC (technical amendment).	Support: FDIC, OCC No Position: OTS	Support: ABA, ACB, FSR, ICBA
37. Enforcing Written Agreements and Commitments – (H.R. 3505 § 405) Clarify the discretionary authority of the Federal banking agencies to enforce (1) any condition imposed in writing in connection with any action on any application, notice, or other request, or (2) any written agreement between the agency and an IAP, particularly those in which an IAP or controlling shareholder agrees to provide capital to the depository institution, without showing unjust enrichment or limiting recovery to 5% of the institution's assets at the time it became undercapitalized. Also, clarify existing FDIC authority as receiver or conservator to enforce written conditions or agreements. Eliminate the requirement that the insured depository institution receiving the transfer be undercapitalized at the time of the transfer.	Support: FDIC, OCC, OTS	Support: ICBA Do not Oppose: ABA,

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<p>Julie Williams/Office of the Comptroller of the Currency (OCC) - continued</p> <p>38. Barring Convicted Felons from Participating in the Affairs of Depository Institutions – (H.R. 3505 § 613) Extend the prohibition to include noninsured national and State member banks and uninsured offices of foreign banks, but the OCC would have authority with respect to noninsured national banks and Federal branches and agencies and the FRB with respect to noninsured State member banks and State branches and agencies.</p>	<p>Support: FDIC, FRB, OCC, OTS</p>	<p>Support: ABA, ACB, FSR, ICBA</p>
<p>39. Ensuring that Accountants of Insured Depository Institutions Are Held to the Same Standard as Other IAPs – (H.R. 1375 § 614 as introduced) (Not in newly introduced House bill) Strike the "knowing and reckless" standard for independent contractors in the definition of an IAP, so that independent contractors are held to a standard that is more like the standard that applies to other IAPs.</p>	<p>Support: FDIC, OCC, OTS</p>	<p>Support: ICBA Do not Oppose: ABA Oppose: ACB</p>
<p>40. Strengthening the Supervision of Stripped-Charter Institutions – (H.R. 3505 § 409) (See #146) Amend the bases under the Change in Bank Control Act (CBCA) for extending the time period for Federal banking agency action on a CBCA notice so that the bases include the need to analyze either the safety and soundness of the business plan or the future prospects of the institution. Also amend the bases for disapproving the CBCA notice to include the future prospects of the institution.</p>	<p>Support: FDIC, FRB, OCC, OTS Needs Further Analysis: CSBS</p>	<p>Support: ABA Neutral: ICBA</p>
<p>41. Providing a Statute of Limitations for Judicial Review of Appointment of a Receiver for a National Bank – (similar to H.R. 3505 § 402) Provide greater consistency in Federal law governing how much time is available to challenge the determination by the OCC to appoint a receiver for a national bank by expressly providing for a 30-day period for a party to judicially challenge a determination by the OCC to appoint a receiver for a national bank.</p>	<p>Support: FDIC, OCC No Position: OTS</p>	<p>Support: ABA, ACB, FSR Neutral: ICBA</p>
<p>42. Allocating Examiner Resources More Efficiently – (H.R. 3505 § 601) (See also #68, 112, & 169) Provide the appropriate Federal banking agencies with discretion to adjust the exam cycle of insured depository institutions to ensure that examiner resources are allocated in a manner that provides for the safety and soundness of, and the effective examination and supervision of, insured depository institutions</p>	<p>Support: NCUA, OTS Prefers #68 Prefers #169: OCC²⁵ Oppose: FRB</p>	<p>Support: ABA, ACB, FSR, ICBA Oppose: CG</p>

²⁵ OCC supports item # 169 in lieu of item #42. Item #169 would increase the threshold for the 18-month examination cycle to \$1 billion and in included in § 607 of H.R. 3505, as reported by the House Financial Services Committee.

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43. Enhancing the Ability of Banking Agencies to Suspend or Remove Bad Actors from Depository Institutions – (an expansion of H.R. 3505 § 609) <ul style="list-style-type: none"> Clarify that the appropriate Federal banking agency may suspend or prohibit IAPs charged with certain crimes from participation in the affairs of <i>any depository institution</i> and not only the insured depository with which the IAP is or was associated. Allow the agency to use the prohibition authority even when the institution with which the individuals were associated ceases to exist. Extend suspension and removal authority to include an individual who attempts to become involved in the affairs of an institution after being charged with a covered crime.	Support: FDIC, FRB, OCC, OTS, NCUA	Support: ABA, ACB, CUNA, FSR, ICBA
44. Providing Equal Treatment for Federal Agencies of Foreign Banks – (H.R. 3505 § 107) Clarify that a Federal agency of a foreign bank can receive uninsured deposits from any persons who are not citizens or residents of the United States.	Support: FDIC, OCC No Position: OTS	Support: ABA, ACB, FSR Neutral: ICBA
45. Maintaining a Federal Branch and a Federal Agency in the Same State – (H.R. 3505 § 108) Repeal the absolute prohibition on maintaining a Federal branch and a Federal agency in the same State and provide that both such offices could be maintained, unless prohibited by State law.	Support: FDIC, OCC No Position: OTS	Support: ABA, ACB, FSR Neutral: ICBA
46. Improving Information Sharing With Foreign Supervisors – (H.R. 3505 § 612) Provide that a Federal banking agency may not be compelled to disclose information received from a foreign regulatory or supervisory authority if public disclosure of the information would violate the laws applicable to that authority and the agency obtained the information in connection with the administration and enforcement of Federal banking laws or under a memorandum of understanding between the authority and the agency. <ul style="list-style-type: none"> Provide that such information would be exempt under FOIA. Does not authorize an agency to withhold information from Congress or in response to a court order. 	Support: CSBS, FDIC, FRB, NCUA, OCC, OTS	Support: ABA, ACB, FSR Neutral: ICBA
47. Exempting the FDIC, OCC, and OTS from the Federal Advisory Committee Act Permit the FDIC, OCC, and OTS to establish and use advisory committees in the same manner as the FRB.	Support: OCC, OTS	Support: ABA, FSR, ICBA Oppose: CG

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Julie Williams/Office of the Comptroller of the Currency (OCC) - continued		
48. Improving Information Sharing – (H.R. 3505 § 602) Give all Federal banking agencies the same discretionary authority as the FRB has to share confidential supervisory information.	Support: CSBS, FDIC, NCUA, OCC, OTS	Support: ABA, ACB, FSR Neutral: ICBA
49. Providing an Inflation Adjustment for the Small Depository Institution Exception under the Depository Institution Management Interlocks Act (DIMIA) – (H.R. 3505 § 404) Increase the small depository institution exemption limit under DIMIA from \$20 million in assets to \$100 million in assets. Unless the institutions have less than \$20 million in assets, DIMIA currently prohibits a management official of one institution from serving as a management official of any other nonaffiliated depository institution or depository institution holding company if the institutions or an affiliate of such institutions have offices that are located in the same MSA. The amendment would increase this exemption threshold to \$100 million in assets.	Support: FDIC, FRB, OCC, OTS	Support: ABA, ACB, FSR, ICBA
(Similar proposal by ACB)		
50. Implementing Risk-Based Requirements for Federal Branches and Agencies (H.R. 3505 § 111) Allow the OCC, after consultation with the FFIEC, to adopt regulations allowing the capital equivalency deposit for a Federal branch or agency to be set on a risk-based, institution-by-institution basis, thereby giving the OCC the same authority to implement a risk-based system that State supervisors have under State law in several key States.	Support: FDIC, OCC Oppose: CSBS No Position: OTS	Support: ABA, ACB, FSR, Neutral: ICBA
51. Allowing the Option for a Federal Representative Office License Provide an option for the OCC to approve the establishment of and supervise Federal representative offices of foreign banks to operate in States that do not otherwise prohibit such offices.	Support: OCC Oppose: CSBS No Objection: FDIC No Position: OTS	Support: FSR Neutral: ICBA No Position: ABA
John Bowman/Office of Thrift Supervision (OTS)		
52. Parity for Savings Associations under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940 – (H.R. 3505 § 201) Amend the definitions of <i>bank</i> and <i>applicable regulatory agency</i> to include expressly savings associations and the OTS, respectively (thereby subjecting such associations to the same investment adviser and broker-dealer registration requirements as banks). (Similar proposals by ACB, FSR)	Support: FDIC, NCUA, OTS No Position: OCC	Support: ABA, ACB, FSR, ICBA

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's & Consumer Groups' Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
John Bowman/Office of Thrift Supervision (OTS) - continued		
53. Small Business and Other Commercial Loans – (H.R. 3505 § 212) Add small business lending to the list of loans that a Federal savings association may invest in, sell, or otherwise deal in without limitation. Increases the cap on other commercial lending from 10% to 20%.	Support: FDIC, OTS Oppose: CSBS No Position: OCC	Support: ABA, ACB, FSR, ICBA
(Similar proposals by ACB, FSR)		
54. Repeal of Qualified Thrift Lender Requirement with Respect to Out-of-State Branches – (H.R. 3505 § 211) Eliminate the requirement that a multi-state savings association meet the QTL test on a state-by-state basis.	Support: FDIC, OTS Oppose: CSBS No Position: OCC	Support: ABA, ACB, FSR Against: ICBA
(Similar proposals by ACB, FSR)		
55. Investments by Federal Savings Associations Authorized to Promote the Public Welfare – (H.R. 3505 § 202) (See also #96) Give Federal savings associations authority parallel to that of national banks and State member banks to make investments primarily designed to promote the public welfare, directly or indirectly, by investing in an entity primarily engaged in making public welfare investments. There is an aggregate limit on investments of 5% of the savings association's capital and surplus, unless OTS determines a higher amount poses no significant risk to the deposit insurance fund and the savings association is adequately capitalized. In no case may the aggregate investments by a savings association exceed 10% of its capital and surplus. Savings associations could use this new community development investment authority without regard to the prohibition against acquiring or retaining corporate debt that is not of investment grade; no similar limit applies to banks.	Support: FDIC, OTS No Position: OCC	Support: ABA, ACB, FSR, ICBA
(Similar proposals by ACB, FSR)		
56. Eliminating Geographic Limits on Thrift Service Companies – (H.R. 3505 § 503) Permit Federal savings associations to invest in service companies without regard to geographic restrictions.	Support: FDIC, OTS No Objection: OCC ²⁶ Oppose: CSBS	Support: ABA ²⁷ , ACB, FSR

²⁶ OCC does not object if the Bank Service Company Act (BSCA) is similarly amended for bank service companies. The OCC has worked with the OTS and the other federal banking agencies to suggest language for a parity amendment to the BSCA. Such language is included in § 406 of H.R. 3505, as reported by the House Financial Services Committee.

²⁷ ABA opposes unless a similar change is made to the Bank Service Company Act to eliminate geographic limits on bank service companies.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's & Consumer Groups' Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
John Bowman/Office of Thrift Supervision (OTS) - continued		
57. Mergers and Consolidations of Federal Savings Associations with Non-Depository Institution Affiliates – (H.R. 3505 § 203) Give Federal savings associations authority parallel to that of national banks to merge with one or more of their non-thrift subsidiaries or affiliates. As with national banks' authority, this amendment would not affect the applicability of section 18(c) of the FDI Act (a/k/a the Bank Merger Act).	Support: FDIC, OTS No Position: OCC	Support: ABA, ACB, FSR Neutral: ICBA
58. Clarifying Citizenship of Federal Savings Associations for Federal Court Jurisdiction – (H.R. 3505 § 213) (See also #28) Expressly provide that a Federal savings association is only a citizen of the State in which its main office is located for purposes of determining diversity jurisdiction. (Similar proposals by ACB, FSR)	Support: FDIC, OCC ²⁸ , OTS Oppose: CSBS	Support: ABA, ACB, FSR Oppose: CFOA/NCLC ²⁹ , CG
59. OTS Statutory Succession Authority - (H.R. 3505 § 622) Authorize the Treasury Secretary to appoint one or more individuals within the OTS to serve as OTS Acting Director in order to assure agency continuity during a vacancy in the office of the Director of the OTS or in the absence or disability of the Director of the OTS, and modernize the existing statutory appointment authority for the OTS Director by permitting an appointee a new five-year term.	Support: FDIC, OTS No Position: OCC	Support: ABA, ACB, FSR, ICBA

²⁸ OCC supports parity for national banks and federal thrifts. (See #28).

²⁹ CFOA and NCLC are opposed. Allowing virtually unlimited diversity jurisdiction in federal courts for national banks and federal thrifts is a bad idea.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's & Consumer Groups' Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
John Allison/Mississippi Commissioner of Banking & Consumer Finance/Conference of State Bank Supervisors (CSBS)		
60. Coordination of Examination Authority – (H.R. 3505 § 619) <ul style="list-style-type: none">• Underscore authority of the State regulators for the institutions that they charter (i.e., “home” State regulators).• Require both the home and host State bank supervisors to exercise authority in compliance with the applicable cooperative agreements, thus encouraging coordination among the States.• Unless otherwise provided in a cooperative agreement, allow only a home State to assess supervisory fees on the banks it charters.• Authorize the host State supervisor, upon written notice to the home State, to examine for compliance with applicable host State laws subject to the terms of any applicable cooperative agreement with the home State. (Replaces a blanket authorization for the host State supervisor to examine for compliance with host State laws without regard to the home State supervisor).• For the purposes of safety and soundness supervision, clarify that the chartering State is the primary State supervisor and limit host State supervisors to the express terms of any applicable cooperative agreement. However, host States may act unilaterally and examine the branch of an out-of-state State bank if that bank is determined to be “troubled” (i.e., a 4 or 5 CAMELS rating).• Authorize a host State supervisor to enforce applicable host State law, subject to the terms of any cooperative agreement and with written notice to the home State supervisor.	Support: CSBS No Objection: FDIC, OCC No Position: OTS	Support: ABA, ACB, FSR
(Similar proposals by ACB, FSR)		

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's & Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
John M. Reich/Federal Deposit Insurance Corporation (FDIC)		
61. Exempt Merger Transactions Between An Insured Depository Institution and One or More of Its Affiliates from Competitive Factors Review and Post-Approval Waiting Periods – (See also #69) Exempt merger transactions between insured depository institutions and their affiliates, which are generally accepted as not presenting any competitive issues, from competitive factors review by the Attorney General and other banking agencies and the post-approval waiting period.	Support: FDIC, FRB, OCC, OTS ³⁰	Support: ABA, ACB, FSR Neutral: ICBA
62. Eliminate Requirement for Prior Written Consent to Establish Branches by Well-Managed, Well-Capitalized, Highly-Rated Institutions (See also #118) Permit well-managed, well-capitalized, highly-rated institutions, with CRA ratings of satisfactory or better to establish branches without prior written consent of the appropriate Federal regulator, requiring only local publication prior to establishment and after-the-fact notice to be filed with the regulators. (Preserve opportunity for consumers to raise CRA concerns.)	Support: FDIC, OTS Has Concerns: OCC ³¹ Oppose: FRB ³²	Support: ABA, ACB ³³ , FSR, ICBA Oppose: CG
(Similar proposal by ACB)		
63. Eliminate Annual Privacy Notice Requirement for Institutions that Do Not Share Personal Information (H.R. 3505 § 617) Eliminate the annual notice requirement for those financial institutions that do not disclose nonpublic personal information to any nonaffiliated third party in a manner that would be subject to a consumer's right to opt out under either § 503 of the Gramm-Leach-Bliley Act (GLBA) or the Fair Credit Reporting Act (FCRA).	Support: CSBS, FDIC Qualified Support: OTS ³⁴ No Objection: OCC ³⁵	Support: ABA, ACB, CUNA, FSR, ICBA Oppose: CG
(Similar proposal by ACB)		

³⁰ OTS supports with #69.

³¹ OCC has concerns about impact on CRA and Riegle-Neal interstate banking and branching requirements.

³² The FRB opposes but has supported an alternative amendment that would authorize state and national banks (other than ILCS that operate under the special exemption in the BHC Act) to open de novo branches nationwide, provided the bank complies with the requirements of the Riegle-Neal Act (other than the state "opt-in" requirement). The FRB opposes proposals that would allow ILCS to open de novo branches nationwide if the corporate owner of the ILCS takes advantage of the special exemption in current law that allows the owner to operate outside the prudential framework that Congress has established for corporate owners of other types of full-service insured banks.

³³ ACB supports its proposal, presented in its June 22, 2004 testimony, to eliminate unnecessary branch applications.

³⁴ OTS feels that further discussion is needed with regard to "constructive sharing" of information with third-parties and initial notifications.

³⁵ OCC does not object provided the institution does not share nonpublic personal information under GLBA or FCRA of the type that is subject to a consumer's right to opt out and there has been no change in the institution's privacy disclosures from the information disclosed in the most recent prior annual notice. The OCC notes that the federal banking agencies issued an Advance Notice of Proposed Rulemaking (ANPR) on December 30, 2003 (68 FR 75164) requesting public comment on ways to improve the GLBA privacy notices, which may result in more extensive recommendations for changes to privacy notices. We are in the process of conducting consumer testing to decide how to improve privacy notices, and to determine what aspects of the notices consumers find helpful. This testing may result in the Agencies undertaking significant changes to the privacy rules or recommending other legislative changes to Congress.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's & Consumer Group's Positions
<p>(Similar proposals by other witnesses noted to the extent given in their testimony)</p> <p>John M. Reich/Federal Deposit Insurance Corporation (FDIC) – continued</p> <p>64. Waiver of the Three-Day Right of Rescission Authorize the Federal Reserve Board to issue regulations permitting consumers to waive the three-day right of rescission in wider circumstances than the law currently permits, including voluntary waiver by borrowers seeking immediate access to funds with a signed written statement voluntarily waiving or modifying any rights to rescind the transaction. Alternatively, require lenders to provide the closing documents three days prior to closing and incorporate the right of rescission into this three-day period as proposed by the staffs of the Federal Reserve and HUD in 1998.</p> <p>(Similar proposal by ICBA also proposes repealing right)</p> <p>65. Increased Flexibility for Flood Insurance (See also #107) Amend the Flood Disaster Protection Act of 1973 to:</p> <ul style="list-style-type: none">• Address the situation where the official flood map is more than ten years old;• Increase the "small loan" exception (currently \$5,000) and allow adjustments for inflation on a regular bases;• Amend the forced-placement rules to allow lenders to force-place flood insurance within 30 days (instead of the current 45 days) of notifying the borrower; and• Eliminate mandatory civil monetary penalties when a regulator finds a pattern and practice of certain violations of the National Flood Insurance Program to provide regulators with greater flexibility to tailor their actions more closely to individual cases. <p>(Similar proposal by ICBA)</p>	<p>Support: OTS No Objection: OCC³⁶ Supports Alternative: CSBS Oppose: FRB³⁷ Withdraw: FDIC</p>	<p>Support: ABA³⁸, ACB, FSR, ICBA³⁹ Oppose: CFOA/NCLC⁴⁰, CG</p>
	<p>Support: FRB, OTS Defer to More Study: FDIC Defer Taking Position: OCC⁴¹</p>	<p>Support: ABA, ACB, FSR⁴², ICBA Oppose: CG</p>

³⁶ OCC does not object provided the amendment is refined to protect consumers from abuses that may occur if a consumer is permitted to waive this right.

³⁷ The FRB opposes. Because of the importance of the three-day rescission and the current statutory framework for the mortgage process, the FRB believes that changes to the right of rescission should be made by Congress, and not through agency action, and only after obtaining appropriate input from industry and consumer representatives.

³⁸ ABA supports the first proposal

³⁹ ICBA supports it if both options are available.

⁴⁰ CFOA and NCLC are opposed. Diluting the protections provided through the disclosures and the right of rescission in the Truth in Lending Act would be very harmful to consumers.

⁴¹ OCC defers taking a position in light of other pending legislation.

⁴² FSR supports providing more guidelines on flood insurance and consumer access to flood zone information and to determine if the information is current.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's & Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
John Bowman/Office of Thrift Supervision (OTS)		
66. Apply the International Lending Supervisors Act (ILSA) to Savings Associations Subject Federal and State thrifts and their subsidiaries and affiliates to the ILSA on the same basis as other banking institutions.	Support: OTS No Objection: FDIC No Position: OCC	Support: ABA, ACB, FSR Neutral: ICBA
(Similar proposal by ACB)		
67. OTS Representation on the Basel Committee Amend ILSA to give the OTS equal representation on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland (a/k/a/ the Basel Committee)	Support: OTS No Objection: FDIC, OCC	Support: ABA, ACB, FSR Neutral: ICBA
(Similar proposal by ACB)		
68. Enhanced Examination Flexibility – (See also #42, #112 &169) Increase the small institution exemption in the examination cycle provision from \$250 million to \$500 million.	Support: CSBS ⁴³ , FDIC, FRB, OTS Prefers #169: OCC ⁴⁴	Support: ABA ⁴⁵ , ACB, FSR, ICBA Oppose: CG
69. Streamlining Agency Action Under the BMA – (Same as #5) (See also #61) Eliminate the requirement that each Federal banking agency request a competitive factors report from the other three banking agencies and the Attorney General. Continue requiring only two filings - one with the Attorney General and one with the FDIC, as insurer.	Support: FDIC, FRB, OCC, OTS	Support: ABA, ACB, FSR, ICBA
John Allison/Mississippi Commissioner of Banking & Consumer Finance/Conference of State Bank Supervisors (CSBS)		
70. Regulatory Flexibility for the Federal Reserve Remove limitations on the powers of State member banks in the Federal Reserve Act eliminating distinction in powers between State-chartered member banks and State nonmember banks.	Support: CSBS No Objection: FDIC No Position: OTS Oppose: OCC ⁴⁶	Support: ABA, FSR, ICBA

⁴³ CSBS supports increasing the small institution exemption to \$1 billion.

⁴⁴ OCC supports item # 169 in lieu of item #68. Item #169 would increase the threshold for the 18-month examination cycle to \$1 billion and in included in § 607 of H.R. 3505, as reported by the House Financial Services Committee.

⁴⁵ ABA supports applying it to all institutions.

⁴⁶ OCC opposes as this amendment undoes key safety and soundness parity between state member banks and national banks regarding financial subsidiary activities.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's & Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
John Allison/Mississippi Commissioner of Banking & Consumer Finance/Conference of State Bank Supervisors (CSBS) - continued		
71. Tax Treatment for Limited Liability Corporations Encourage the IRS to provide State banks organized as State-chartered LLCs the same pass-through tax treatment as is given to partnerships.	Support: CSBS No Position: FDIC ⁴⁷ , FRB ⁴⁸ OCC ⁴⁹	Support: ABA ⁵⁰ , ACB, ICBA
72. Federal Financial Institutions Examination Council (FFIEC) Add a representative State regulator as a full voting member on the FFIEC.	Support: CSBS, NASCUS No Objection: FDIC Oppose: FRB ⁵¹ , OCC	Support: ICBA No Position: ABA
Roger W. Little/Deputy Commissioner, Credit Unions, Michigan Office of Financial and Insurance Services/National Association of State Credit Union Supervisors		
73. Expand Prompt Corrective Action Provision to Federal Credit Union Act Obligate Federal credit unions to include all forms of capital when calculating required net worth ratio. Credit unions should have access to alternative capital structures to ensure that ownership interest of a credit union remains with its members, the not-for-profit structure of credit unions is preserved, and it is allowed under GAAP. Structured correctly, alternative capital is complementary to the proposed risk-based capital system.	Support: NASCUS	Needs More Detail: CUNA ⁵² No Position: NAFCU ⁵³ Oppose: ABA, ACB, ICBA
74. Expand Business Lending Authority <ul style="list-style-type: none">• Raise the statutory basket for member business loans from 12.25% to 20% of total assets;• Redefine member business loan to increase the current limit from \$50,000, possibly by using the Fannie/Freddie conforming loan limit, approximately \$359,000, as of January 2005.	Support: NASCUS	Support: NAFCU ⁵⁴ Oppose: ABA, ACB, ICBA

⁴⁷ FDIC was unable to formulate a position since there was no legislative language for this proposal.

⁴⁸ The FRB takes no position since the proposal lacks implementing statutory language.

⁴⁹ OCC has no position until legislative language is provided.

⁵⁰ ABA supports it for all bank LLCs.

⁵¹ The FRB opposes. The existing structure of the FFIEC includes a liaison committee composed of five representatives of state financial institution supervisors. This structure provides an effective mechanism for the federal agencies represented in the Council to coordinate and discuss supervisory and regulatory issues with state supervisors as appropriate.

⁵² CUNA supports efforts to address concerns with the required net worth ratio and prompt corrective action, but would prefer to review the specifics of any proposed language regarding this provision before stating an official position.

⁵³ NAFCU supports efforts to address concerns with the required net worth ratio and prompt corrective action, but would prefer to review the specifics of any proposed language regarding this provision before stating an official position.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal		
	Regulators' Position	Industry's & Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
John Allison/Mississippi Commissioner of Banking & Consumer Finance/Conference of State Bank Supervisors (CSBS)		
75. Federal Preemption of State Regulation of Consumer Protection Practices Encourage Congress to intervene to block continuing OCC preemption of State laws.	Support: CSBS, NASCUS No Position: FRB ⁵⁵ Oppose: OCC	Support: CG Oppose: ABA, ACB,

⁵⁴ Recommend the language from Section 201 and 202 of H.R. 2317.

⁵⁵ The FRB takes no position since the proposal lacks implementing statutory language.

**- SECTION II -
MEMBERS' PROPOSALS**

The failure to state a position on these items should not be interpreted to mean support or opposition to any of the suggested concepts.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
Senator Mary L. Landrieu		
76. Consumer Rental Purchase Agreement Act of 2003 – (S. 884) Amend the Consumer Credit Protection Act to require disclosure of the terms of rental-purchase agreements, including disclosure of all costs to consumers under such agreements, and to provide certain substantive rights to consumers under such agreements. The bill exempts credit sales, consumer leases, or transactions giving rise to a debt incurred in connection with the business of lending money from the definition of a “rental-purchase agreement.”	No Position: OCC Oppose: FRB ⁵⁶	No Position: ABA Oppose: CFOA/NCLC ⁵⁷ , CG
Senator Blanche Lincoln		
77. Clarification of Scope of Applicable Rate Provision – (S. 904 and H.R. 3505 § 504) Allow nonbank lenders in Arkansas, who are currently subject to a State usury restriction, to charge the same rates of interest that their out-of-state competitors are legally importing into Arkansas under Federal law.	No Position: OCC	No Position: ABA Oppose: CFOA/NCLC ⁵⁸ , CG

⁵⁶ FRB opposes. The FRB does not have direct experience with rent-to-own transactions and dealers covered by S. 603 as most rent-to-own dealers are not within the supervisory jurisdiction of the FRB. The FRB believes that it would be more appropriate for Congress to provide the FTC with rule-writing authority for implementing S. 603 if the provisions of the bill are enacted.

⁵⁷ CFA and NCLC are opposed. S. 603, entitled, ‘The Consumer Rental-Purchase Agreement Act of 2005’ is not a consumer protection bill. It is solely designed to protect the rent to own industry from having to provide meaningful consumer protections.

⁵⁸ CFA and NCLC are opposed. Preemption of the voter-mandated constitutional interest rate ceilings in the state of Arkansas is terribly unfair to Arkansas voters, as it would completely remove the state’s ability to impose any limits on any loans in the state.

- SECTION III -
FINANCIAL INDUSTRY REPRESENTATIVES' PROPOSALS SUPPORTED BY LEGISLATIVE LANGUAGE
The failure to state a position on these items should not be interpreted to mean support or opposition to any of the suggested concepts.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
Mark Macomber/President & CEO, Litchfield Bancorp/America's Community Bankers		
78. Expand Availability of Small Institution Exam Cycle (H.R. 3952) (See also #102) Allow banks with less than \$1 billion in assets to participate in the longer CRA exam cycle, which requires a routine CRA examination not more than once every 60 months if the institution was rated "outstanding" in its most recent exam, and not more than once every 48 months if the institution was rated "satisfactory" in its most recent exam.	Has Concerns: OCC ⁵⁹ Oppose: FDIC ⁶⁰ , FRB	Support: ABA, ACB, ICBA Oppose: CFOA/NCLC ⁶¹ , CG
(Similar proposals by ICSA, along with an increase to \$2 billion with inflation adjustment)		
79. Mortgage Servicer Exemption to FDICPA (H.R. 1025 as passed by House) Provide that mortgage servicers of federally related mortgage loans do not have to provide the "mini-Miranda" notices to the borrower before beginning collection efforts on defaulted loans under the FDICPA.	Support: OTS No Position: OCC Oppose: FDIC	Support: ABA, ACB, FSR, ICBA Oppose: CFOA/NCLC ⁶² , CG
(Similar proposal by FSR)		
80. Elimination of RESPA Imprisonment Sanction Strike the imprisonment sanction for violations of section 8 of the Real Estate Settlement Procedures Act (12 U.S.C. § 2607(d)(1))	Oppose: FDIC ⁶³ , OCC No Position: OTS	Support: ACB, FSR, ICBA No Position: ABA

⁵⁹ OCC has concerns. Item #78 may not be necessary in light of the recent regulation promulgated by the OCC, FRB, and FDIC to reduce burden on small depository institutions with respect to CRA.

⁶⁰ The FDIC opposes. Examination frequency should be based on policy considerations by the agency. The agencies currently have the flexibility to adjust the frequency of examinations for larger institutions, and the FDIC would prefer to retain that flexibility.

⁶¹ CFOA and NCLC are opposed. Congress oversight is critical to ensure that CRA regulations are not weakened.

⁶² CFOA and NCLC are opposed. The proposed mortgage servicers' exemption from a requirement in the Fair Debt Collection Practices Act is bad public policy and will undermine efforts to rein in foreclosure inducing practices of some mortgage servicers.

⁶³ The FDIC opposes. Criminal sanctions are appropriate for the offenses for which imprisonment is currently an option under RESPA. It is questionable that a \$10,000 fine for RESPA violation(s) would be sufficient to deter fee-splitting, kickbacks, and charging for work that was not performed in the mortgage settlement services industry.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal		Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)			
Mark Macomber/President & CEO, Litchfield Bancorp/America's Community Bankers - continued			
81. Eliminating Dividend Notice Requirements -- (H.R. 3505 § 204) (See also #31 & #117) Eliminate requirement that a well-capitalized savings association in an S&L holding company notify OTS of its intention to pay a dividend, so long as the association will remain well capitalized after paying the dividend.	Support: FDIC, OCC ⁶⁴ Oppose: OTS	Support: ABA, ACB, FSR, ICBA	
(Similar proposal by FSR)			
82. Removal of Limitations on Investments in Consumer Loans -- (Similar to H.R. 3505 § 208) Eliminate restriction on Federal savings associations that limit the amount of loans made for personal, family, or household purposes (consumer loans) to 35% of total assets.	Support: FDIC, OTS No Position: OCC	Support: ABA, ACB, FSR, ICBA	
(Similar proposal by FSR)			
Marilyn F. James/CEO, NEPCO Federal Credit Union/Credit Union National Association			
83. Credit Union Conversion Voting Requirements (H.R. 3579 § 113) Require a majority vote of at least 20% of the membership to approve a credit union conversion.	Oppose: NASCUS ⁶⁵	Support: NAFCU ⁶⁶ Neutral: CUNA ⁶⁷ Oppose: ABA, ACB, ICBA	
84. Limits on Member Business Loans (H.R. 3579 § 201) Eliminate the current asset limit on member business loans at a credit union from the lesser of 1.75 times actual net worth or 1.75 times the minimum net worth required for a well-capitalized credit union and replaces it with a flat rate of 20% of the total assets of a credit union.	Support: NASCUS	Support: CUNA ⁶⁸ , NAFCU Oppose: ABA, ACB, ICBA	
(Similar proposal by NAFCU)			

⁶⁴ The OCC supports this amendment only if the OCC dividend amendment is included in the legislation. (See #31)

⁶⁵ NASCUS strongly believes that the process form converting a state-chartered credit union to another financial institution charter is a matter that should be determined by state law and regulation. NASCUS strongly endorses states rights.

⁶⁶ NAFCU supports it only as a part of an overall package of regulatory relief.

⁶⁷ CUNA's position is that while it believes the credit union charter a better choice for consumers, it recognizes the right of credit union members to determine the appropriate charter for themselves without having undue restrictions on their ability to make that choice, so long as it is fully informed through proper disclosure.

⁶⁸ CUNA's position on the issue, through testimony before the House and Senate and its strong support of H.R. 3579, is that it prefers that the MBL cap be eliminated totally, but it supports efforts to increase the cap to 20%.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony) Marilyn F. James/CEO, NEPCO Federal Credit Union/Credit Union National Association - continued		
85. Definition of Member Business Loan (H.R. 3579 § 202) Amend the current definition of member business loan to facilitate such loans by giving the NCUA the authority to exclude loans of \$100,000 or less as <u>de minimis</u> , rather than the current limit of \$50,000. (Similar proposal by NAFCU)	Support: NASCUS	Support: CUNA, NAFCU Oppose: ABA, ACB, ICBA
86. Restrictions on Member Business Loans (H.R. 3579 § 203) Give the NCUA discretion to allow an undercapitalized credit union to make new member business loans.	Support: NASCUS	Support: CUNA, NAFCU Oppose: ABA, ACB, ICBA

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal		Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)			
Mark Macomber/President & CEO, Litchfield Bancorp/America's Community Bankers			
87. Increase Limits for Thrifts on Commercial Real Estate Loans (H.R. 3505 § 214) Allow thrifts to have commercial real estate loans amounting to 500% of capital and give OTS the flexibility to increase that limit.		Support: FDIC, OTS No Position: OCC	Support: ABA, ACB, FSR
88. Eliminate "Per Unit" limit in Residential Housing Development Provision for LTOB Purposes (H.R. 3505 § 215) Eliminate the limitation in the Loans to One Borrower provision applicable to thrifts that restricts loans to develop domestic residential housing units to units with a purchase price that does not exceed \$500,000.		Support: FDIC, OTS No Position: OCC	Support: ABA, ACB, FSR, ICBA
89. Permit S&L Holding Companies to Acquire Thrifts in Other States under the Same Rules as BHCs (H.R. 3505 § 217) Allow multiple S&L holding companies to acquire thrifts in other States under the same rules that apply to bank holding companies under the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 by eliminating restrictions that prohibit an S&L holding company from acquiring a thrift if it would cause the holding company to become a multiple S&L holding company controlling thrifts in more than one State.		Support: OTS No Objection: FDIC No Position: OCC	Support: ABA, ACB, FSR
90. Allow Savings Associations to Act as Agents for Affiliated Depository Institutions - (H.R. 3505 § 505) Give savings associations the same authority as banks to act as agents for their affiliated depository institutions.		Support: FDIC, OTS No Position: OCC	Support: ABA, ACB, FSR Neutral: ICBA
(Similar proposal by FSR)			
91. Continuing Debt Collection Efforts Make clear that a debt collector need not wait for the 30-day period that a debtor has to dispute a debt to begin collection efforts.		Support: FDIC ⁶⁹ No Objection: OCC ⁷⁰ No Position: OTS	Support: ABA, ACB, FSR Oppose: CG

⁶⁹ FDIC support conditioned on the further requirements that: i) the initial written communication conspicuously informs the debtor that additional collection efforts will cease upon written notice of dispute; and ii) the FTC promulgate implementing regulations including specific language to be used and defining "conspicuous notice."

⁷⁰ The OCC does not object provided amendment only clarifies current law.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	(Similar proposals by other witnesses noted to the extent given in their testimony)	
	Regulators' Position	Industry's and Consumer Group's Positions
Mark Macomber/President & CEO, Litchfield Bancorp/America's Community Bankers - continued		
92. Repeal of Overlapping Rules for Purchased Mortgage Servicing Rights (H.R. 3505 § 206) Eliminate a cap on the valuation of purchased mortgage servicing rights at 90% of fair value and thereby permits savings associations to value PMSRs, for purposes of certain capital and leverage requirements, at more than 90% up to 100% of fair market value, if the banking agencies jointly find that doing so would not have an adverse effect on the insurance funds or the safety and soundness of insured institutions, consistent with section 475 of FDICIA, as amended by section 1208 of the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. No. 106-569).	Support: FDIC, OTS No Objection: OCC	Support: ABA ⁷¹ , ACB, FSR, ICBA
93. Repeal \$100,000 Lending Limit on Loans to Executive Officers (See # 111) Eliminate the provision requiring the appropriate Federal banking agencies to set a regulatory lending limit on other purpose loans to executive officers and replaces it with the limit on loans to one borrower.	Support: FDIC ⁷² , OCC, OTS ⁷³ Oppose: FRB ⁷⁴	Support: ABA ⁷⁵ , ACB, FSR, ICBA
94. Investments in Service Companies (in part reflected in H.R. 3505 § 406, which allows savings associations to invest in bank service companies) Provide parallel investment authority for banks and thrifts to participate in both bank service companies and thrift service companies, while preserving existing activity limits and maximum investment rules, as well as the roles of the Federal regulatory agencies with respect to subsidiary activities of the institutions under their primary jurisdiction.	Support: FDIC, OCC ⁷⁶ , OTS Oppose: FRB ⁷⁷	Support: ABA, ACB, FSR

⁷¹ ABA supports it if it is applied equally to all.

⁷² FDIC only supports proposal with an increased limitation on "other purpose loans" to \$250,000.

⁷³ OTS supports an increase to \$250,000.

⁷⁴ FRB opposes. The federal banking agencies already have the authority to raise the existing \$100,000 limit if the agencies determine that such action would be consistent with safety and soundness. FRB expects to commence a comprehensive review of Regulation O in the near future and expects, as part of this process, to consider whether it would be appropriate to raise the existing \$100,000 aggregate limit.

⁷⁵ ABA supports an increase to \$250k.

⁷⁶ See also #56.

⁷⁷ FRB opposes. This amendment would allow savings associations to invest in bank service companies without complying with the investment limitations, approval requirements, and other limitations that apply to bank investors in a bank service company. FRB staff worked closely with industry representatives in developing an alternative amendment, which was included in the regulatory relief bill that passed the House last year (H.R. 1375). The alternative amendment would allow savings associations to invest in bank service companies in the same manner, and subject to the same terms and conditions, that insured banks may invest in bank service companies.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal		Regulators' Position Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony) Mark Macomber/President & CEO, Litchfield Bancorp/America's Community Bankers - continued 95. Streamlining Savings Association Subsidiary Notifications Eliminate the requirement that a savings association notify the FDIC before establishing or acquiring a subsidiary or engaging in a new activity through a subsidiary, but a savings association would still be required to notify OTS.	Support: OTS Oppose: FDIC No Position: OCC	Support: ABA, ACB, FSR
96. Authorizing Additional Community Development Activities (See also #55) Allow Federal savings associations to invest directly in community development corporations, as national and State member banks are permitted.	Support: FDIC No Position: OCC, OTS ⁷⁸	Support: ABA, ACB, FSR, ICBA
97. Reimbursement for the Production of Records Require the government to reimburse banks for the cost of assembling and providing records of corporate bank customers that the government is investigating and clarifies that the reimbursement requirement under the Right to Financial Privacy Act applies to records provided under the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001.	No Objection: FDIC No Position: OCC ⁷⁹ , OTS	Support: ABA, ACB, CUNA, FSR, ICBA
98. Extending Divestiture Period Provide that unitary savings association holding companies that become multiple savings association holding companies have 10 years (instead of 2 years) to divest non-conforming activities, consistent with the rule applicable to new financial services holding companies under GLBA.	Support: OTS No Objection: FDIC No Position: OCC	Support: ACB, FSR No Position: ABA Oppose: ICBA, CG
99. Credit Card Savings Associations - (H.R. 3505 § 216) Permit an S&L holding company to charter a credit card savings association and still be exempt from the activity restrictions imposed on multiple S&L holding companies, consistent with current authority to charter a credit card national or State bank and maintain that exemption. (Similar proposal by FSR)	Support: OTS No Objection: FDIC No Position: OCC	Support: ACB, FSR Neutral: ICBA No Position: ABA

⁷⁸ OTS prefers #55.

⁷⁹ The OCC takes no position on this amendment and defers to Treasury and FinCEN.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
Mark Macomber/President & CEO, Litchfield Bancorp/America's Community Bankers - continued		
100. Protection of Information Provided to Banking Agencies Provide that when a depository institution submits information to a Federal, State, or foreign bank regulator as part of the supervisory process, the institution does not waive any privilege it may claim with respect to that information.	Support: FDIC, FRB ⁸⁰ , OCC ⁸¹ , OTS	Support: ABA, ACB, FSR, ICBA
(Similar proposal by FSR) Dale L. Leighty/Chairman/President, First National Bank of Las Animas (CO)/Independent Community Bankers of America		
101. Industrial Loan Company Exemption Eliminate exemption for industrial loan companies from regulation and supervision of parent company as bank holding company. (Similar proposal by Consumer Groups)	No Position: FRB ⁸² , OCC ⁸³ Oppose: FDIC ⁸⁴ , CSBS	Support: ABA ⁸⁵ , ICBA, CFOA/NCLC, CG Oppose: ACB, FSR
102. Community Reinvestment Act Amendments (See also #78) Increase the asset size limit for eligibility for the small bank streamlined CRA examination process to \$2 billion in assets and increase the CRA small bank size limit for examination cycle purposes to \$2 billion with inflation adjustments.	No Position: FRB ⁸⁶ Oppose: FDIC ⁸⁷ , OCC,	Support: ABA ⁸⁸ , ACB ⁸⁹ , ICBA Oppose: CFOA/NCLC ⁹⁰ , CG

⁸⁰ The FRB also strongly supports broadening the amendment to cover bank holding companies, foreign banks, and other persons who may submit information to a federal, state, or foreign banking authority as part of the authority's supervisory or regulatory process.

⁸¹ The OCC supports the general intent of this amendment but has concerns with its current language in ACB's 6/22/04 draft.

⁸² The FRB takes no position since the proposal lacks implementing statutory language.

⁸³ The OCC has no position until legislative language is provided.

⁸⁴ The FDIC opposes. While no legislative language is currently available, this proposal has been described generally as eliminating the exemption for industrial loan companies (ILCs) from regulation and supervision of parent company as bank holding company. It is the FDIC's view that ILC charters pose no greater risk to the insurance fund than any other charter type, and ILCs are adequately supervised under current law. The FDIC and state chartering authorities directly supervise ILCs, and ILCs are subject to the same range of examination programs, supervisory activities, and enforcement actions as any other state nonmember bank.

⁸⁵ ABA supports compromise provisions of H.R. 1375 (108th Congress) in dealing with de novo branching. ABA supports payment of interest on corporate checking in H.R. 1224 (109th Congress, reported by House Financial Services Committee).

⁸⁶ The FRB takes no position since the proposal lacks implementing statutory language.

⁸⁷ The FDIC opposes. The agencies are in the process of making changes to the CRA regulations, in part to reduce regulatory burden, and the FDIC believes that it would be more productive to finish that rulemaking than to amend the CRA statute in this manner.

⁸⁸ ABA supports but will consider regulatory alternatives.

⁸⁹ ACB supports its proposal described at #78.

⁹⁰ CFOA and NCLC are opposed. Congressional oversight is critical to ensure that CRA regulations are not weakened.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal		Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)			
Dale L. Leighty/Chairman/President, First National Bank of Las Animas (CO)/Independent Community Bankers of America - continued			
103. Tiered Regulation Continue to refine a tiered regulatory and supervisory system that recognizes the differences between community banks and larger, more complex institutions.	Support: CSBS No Position: FDIC ⁹¹ , FRB ⁹² , OCC ⁹³	Support: ACB ⁹⁴ , ICBA Oppose: ABA ⁹⁵ , CG	
104. Truth in Lending Act Amendments 1. Direct the Federal Reserve to prescribe regulations authorizing customers who borrow from Federally insured depository institutions to waive the three-day right of rescission. 2. Eliminate right of rescission when refinancing with a new lender where: A. no new money is advanced and; B. for home equity lines of credit 3. Direct the Federal Reserve to study options to simplify, relax, or eliminate existing requirements on what may be included and what must be included in advertisements under regulations implementing the Truth in Lending Act.	No Objection: OCC ⁹⁶ Oppose: FDIC, FRB ⁹⁷ , OTS, A) Oppose: FDIC, FRB, OCC ¹⁰⁰ , OTS B) Oppose: FDIC, FRB, OCC, OTS No Position: OCC ¹⁰¹ Oppose: FDIC, FRB ¹⁰² , OTS	Support: ABA, ACB ⁹⁸ , FSR, ICBA Oppose: CFOA/NCLC ⁹⁹ , CG	

⁹¹ FDIC was unable to formulate a position since there was no legislative language for this proposal.

⁹² The FRB takes no position since the proposal lacks implementing statutory language.

⁹³ The OCC has no position until legislative language is provided.

⁹⁴ ACB supports reducing regulatory burden on community banks, whenever and wherever feasible.

⁹⁵ ABA is opposed to a separate regulatory structure because the public would perceive them as less safe.

⁹⁶ The OCC has no objection to allowing greater latitude to waive provided consumers are protected from abuses that may occur from allowing a consumer to waive this right.

⁹⁷ FRB opposes. See discussion under item 64.

⁹⁸ ACB supports all of the provisions except #7, which it takes no position on.

⁹⁹ CFA and NCLC are opposed. Diluting the protections provided through the disclosures and the right of rescission in the Truth in Lending Act would be very harmful to consumers.

¹⁰⁰ OCC opposes expanding exemption in current law to new creditors.

¹⁰¹ The OCC has no position until legislative language is provided.

¹⁰² FRB opposes. The FRB already initiated a comprehensive review of Regulation Z, which implements the TILA. The FRB has issued an advance notice of propose rulemaking (ANPR) that requests public comment on all aspect of the regulation's provisions affecting revolving credit accounts other than home-secured accounts, including ways to simplify, reduce, or improve the disclosures that must or may be provided under TILA. The ANPR also seeks public comment on whether there are any statutory changes to TILA that the FRB should consider recommending to Congress.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal			Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)				
4. Simplify the definition of the finance charge so that all consumers can understand the annual percentage rate.			No Position: FRB ¹⁰³ , OCC ¹⁰⁴ Oppose: FDIC, OTS	
5. Synchronize and coordinate early TILA and RESPA disclosures and focus on the information that consumers want most, such as the principal amount of the loan, simple interest rate on the promissory note, amount of the monthly payment, and costs to close the loan.			No Position: FRB ¹⁰⁵ , OCC ¹⁰⁶ Oppose: FDIC, OTS	
6. Expand time frames for resolution of billing errors to allow banks to investigate and resolve errors and avoid fraud; also increase penalties for frivolous error claims.			No Position: FRB ¹⁰⁷ , OCC ¹⁰⁸ Oppose: FDIC, OTS	
7. Provide a <u>de minimis</u> level of \$50 for which no restitution need be ordered for inadvertent errors and allow flexibility so banks do not have to review large numbers of consumer files for inadvertent errors and make restitution of nominal amounts where the costs far outweigh the minimal benefits to the consumer.			No Position: FRB ¹⁰⁹ , OCC ¹¹⁰ Oppose: FDIC, OTS	
105. Home Mortgage Disclosure Act Amendments				
1. Increase the asset threshold for the HMDA exemption from \$34 million to at least \$250 million, with inflation adjustment;			May Support a Lesser Increase: OCC ¹¹¹ No Position: OTS Oppose: FDIC ¹¹² , FRB ¹¹³	Support: ABA ¹¹⁴ , ACB ¹¹⁵ , FSR, ICBA Oppose: CFAA/NCLC ¹¹⁶ , CG

¹⁰³ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁰⁴ The OCC has no position until legislative language is provided.

¹⁰⁵ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁰⁶ The OCC has no position until legislative language is provided.

¹⁰⁷ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁰⁸ The OCC has no position until legislative language is provided.

¹⁰⁹ The FRB takes no position until legislative language is provided.

¹¹⁰ The FRB takes no position since the proposal lacks implementing statutory language.

¹¹¹ While the OCC believes that an increase in this exemption to \$250 million may be too high, the OCC may be able to support a lesser increase.

¹¹² The FDIC opposes. In general, while these proposals would seem likely to reduce compliance burden, the question remains as to whether they would also result in diminished protection for consumers and a reduced access to home mortgage data for governmental and other interested parties.

¹¹³ FRB opposes. While the FRB would support some increase in the current \$34 million asset threshold, the Board does not believe that this threshold should be raised to \$250 million.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal		Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)			
2.	Exempt banks that make fewer than 100 reportable loans per year per category;	No Objection: OCC ¹¹⁷ No Position: OTS Oppose: FDIC ¹¹⁸ , FRB ¹¹⁹	
3.	Allow the banking agencies to develop a definition of "Metropolitan Statistical Area" that applies to banks, instead of using the Census Bureau definition, to avoid covering certain rural banks;	No Position: OTS Oppose: FDIC ¹²⁰ , FRB ¹²¹ , OCC	
4.	Limit reporting to purchase money mortgages and refinancing of such mortgages; and	No Position: OTS Oppose: FDIC ¹²² , FRB ¹²³ , OCC	
5.	Direct the Federal Reserve to streamline HMDA data collection and reporting and eliminate requirements that are not cost-justified.	Support: OCC No Position: OTS Oppose: FDIC ¹²⁴ , FRB ¹²⁵	

¹¹⁴ ABA supports an increase to \$100M.

¹¹⁵ ACB supports all the provisions except 3, which it takes no position on.

¹¹⁶ CFA and NCLC are opposed. Reducing the number of financial institutions required to provide HMDA disclosures would be a serious mistake at this critical juncture.

¹¹⁷ The OCC does not object provided the "per category" criteria is deleted and the small reporter criteria for banks is the same as the criteria for nonblank lending institutions. See 12 CFR 203.2(e)(2)(iii)(B)) (i.e., the bank, savings association, or credit union makes fewer than 100 home purchase loans in a calendar year, including refinancings).

¹¹⁸ FDIC: Refer to footnote #111.

¹¹⁹ FRB opposes. The FRB supports providing an exemption to depository institution that make a de minimis number of HMDA-reportable loans. However, determining the proper threshold for such an exemption requires careful analysis. As a result, it would preferable for Congress to direct the FRB to initiate a rulemaking to create an exemption for depository institutions that make a de minimis number of HMDA-reportable loans in a given year and to determine the appropriate terms and conditions for such an exemption.

¹²⁰ FDIC: Refer to footnote #111.

¹²¹ FRB opposes. It is easier for the federal banking agencies, other public officials, financial institutions, community groups, and other interested parties to understand and analyze the data reported under the statute using a common geographic standard.

¹²² FDIC: Refer to footnote #111.

¹²³ FRB opposes. The FRB has used its exemptive authority to exclude all home equity lines of credit (HELOCs) from HMDA reporting requirements. Therefore, the amendment would not alter the exiting data collection or reporting obligations of financial institutions with respect to HELOCs under HMDA. The FRB should retain the flexibility to cover HELOCs in the future if it determines that such action would be appropriate.

¹²⁴ FDIC: Refer to footnote #111.

¹²⁵ FRB opposes. This amendment is unnecessary. Under current FRB policy, the FRB periodically reviews each of its regulations, including Regulation C, which implements HMDA, to update and, where appropriate, streamline them. Regulation C was reviewed in 2002.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal		Regulators' Position Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony) Dale L. Leighty/Chairman/President, First National Bank of Las Animas (CO)/Independent Community Bankers of America - continued 106. Bank Secrecy Act, USA Patriot Act, Anti-Money Laundering Compliance <ul style="list-style-type: none"> • Increase the threshold for filing a Currency Transaction Report from \$10,000 to \$30,000, adjust it for inflation, and increase other reporting thresholds as well; • Allow banks filing fewer than 50 CTRs a month to file quarterly; • Expand ability for banks to exempt from CTR filings certain regular, known customers and eliminate annual recertification for exempt customers; and • Change record retention requirement under the USA Patriot Act for closed accounts from five to two years. 107. Flood Insurance (See also #65) <ul style="list-style-type: none"> • Streamline and simplify flood insurance requirements; and • Allow exceptions to flood insurance requirements for agricultural real estate where the value of most of the collateral is represented by land, not permanent structures. 108. Privacy Notices Allow banks that do not share information other than pursuant to the processing or service provider exceptions to provide a short statement to that effect printed on the customer's bank statement.		
	No Position: FDIC ¹²⁶ , FRB ¹²⁷ , OCC ¹²⁸ , OTS ¹²⁹	Support: ABA, ACB ¹³⁰ , CUNA ¹³¹ , FSR, ICBA
	No Position: FDIC ¹³² , FRB ¹³³ , OCC ¹³⁴ , OTS ¹³⁵	Support: ABA, ACB, FSR, ICBA
	Qualified Support: OTS ¹³⁶ No Objection: OCC ¹³⁷ (See comments #63) Oppose: FDIC ¹³⁸	Support: ABA, ACB, FSR, ICBA Oppose: CG

¹²⁶ FDIC was unable to formulate a position since there was no legislative language for this proposal.

¹²⁷ The FRB takes no position since the proposal lacks implementing statutory language.

¹²⁸ OCC has no position until legislative language is provided.

¹²⁹ OTS is awaiting language.

¹³⁰ ACB supports increasing Currency Transaction Report thresholds to a reasonable level and reducing the record retention period to a reasonable period of time in order to reduce unnecessary regulatory burden.

¹³¹ CUNA supports increasing Currency Transaction Report thresholds to a reasonable level and reducing the record retention period to a reasonable period of time in order to reduce unnecessary regulatory burden.

¹³² FDIC was unable to formulate a position since there was no legislative language for this proposal. FDIC prefers # 65.

¹³³ The FRB takes no position since the proposal lacks implementing statutory language.

¹³⁴ OCC has no position until legislative language is provided.

¹³⁵ OTS is awaiting language.

¹³⁶ OTS wants the statement to include information regarding the "constructive sharing" of information with third parties.

¹³⁷ OCC does not object provided the institution does not share nonpublic personal information under GLBA or FCRA of the type that is subject to a consumer's right to opt out and there has been no change in the institution's privacy disclosures from the information disclosed in the most recent prior annual notice. The OCC notes that the Federal banking agencies issued an Advance Notice of Proposed Rulemaking (ANPR) on December 30, 2003 (68 FR 75164) requesting public comment on ways to improve the GLBA privacy notices, which may result in more extensive recommendations for changes to privacy notices. We are in the process of conducting consumer testing to

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
Dale L. Leighty/Chairman/President, First National Bank of Las Animas (CO)/Independent Community Bankers of America - continued		
109. Call Report Streamlining (H.R. 3505 § 606) Direct all federal banking agencies to conduct a review of Call Report requirements every five years to determine which data requirements are no longer necessary or appropriate.	Support: CSBS, FDIC, FRB, OCC, OTS	Support: ABA, ACB, FSR, ICBA Oppose: CG
110. Sarbanes-Oxley Act <ul style="list-style-type: none">Exempt banks with less than \$10 billion in assets from internal control attestation and audit requirement; andEstablish additional exemption levels under other sections of the Act for small banks/bank holding companies.	No Position: FRB ¹³⁹ Oppose: FDIC, FRB ¹⁴⁰ , OCC ¹⁴¹ , OTS ¹⁴²	Support: ABA ¹⁴³ , ACB ¹⁴⁴ FSR, ICBA Oppose: CG
111. Credit to Insiders (Reg O) (See also #4 & #93) <ol style="list-style-type: none">Direct agencies to expand overly restrictive executive officer borrowing authority, for example, by increasing dollar amounts officers may borrow for personal residence and children's education and for other purposes.	No Position: FRB ¹⁴⁵ , OCC ¹⁴⁶ Oppose: FDIC, OTS	Support: ABA ¹⁴⁷ , ACB ¹⁴⁸ , FSR, ICBA

decide how to improve privacy notices, and to determine what aspects of the notices consumers find helpful. This testing may result in the Agencies undertaking significant changes to the privacy rules or recommending other legislative changes to Congress.

¹³⁸ The FDIC opposes. While the FDIC objects to this proposal, we support alternative language, i.e., statutory and regulatory amendments that would eliminate the annual notice requirement for institutions that operate in a manner that does not require them to offer customers the opportunity to opt out of information sharing with either affiliated or unaffiliated parties. See #63 on the matrix.

¹³⁹ The FRB takes no position on the second bullet since it lacks implementing statutory language.

¹⁴⁰ FRB opposes the first bullet. The FRB supports the continuing efforts of the SEC and the Public Company Accounting Oversight Board to reduce the compliance burden associated with internal control and audit requirements of section 404 of the Sarbanes-Oxley Act, and harmonize the requirements of section 404 with those of section 36 of the Federal Deposit Insurance Act.

¹⁴¹ OCC is opposed to \$10 billion exemption from SOX and has no position on the second item until legislative language is provided.

¹⁴² OTS opposes and believes that now is not the right time to take up these issues; more study is needed.

¹⁴³ ABA supports ideas to reduce impact of SOX on smaller institutions.

¹⁴⁴ ACB supports setting appropriate exemption levels for small banks and small bank holding companies.

¹⁴⁵ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁴⁶ OCC has no position until legislative language is provided.

¹⁴⁷ ABA has strong support for 1 & 2.

¹⁴⁸ ACB supports its proposal described in No. 93.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal		Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)			
2.	Allow the Federal Reserve to make exceptions to the aggregate credit limit for all bank officers for banks up to \$1 billion in assets.	Oppose: FDIC, FRB ¹⁴⁹ , OCC, OTS	
3.	Lift a requirement that a bank's loan to a bank officer become due and payable on demand if that officer takes out loans from another bank larger than permissible from his own bank, if on arm-length terms.	Oppose: FDIC, OTS No Objection: OCC	
4.	Streamline and reduce certain reporting requirements regarding loans to executive officers and loans from correspondent banks to executive officers and shareholders.	Support: OCC No Position: FRB ¹⁵⁰ Oppose: FDIC, OTS	
112. Examination Cycle (See also #42, #68 & #169) Give Federal banking agencies greater flexibility to determine the examination interval for well-rated, well-capitalized banks with less than \$1 billion in assets.		Support: CSBS Prefer #68: FDIC No Position: OCC ¹⁵¹ , OTS ¹⁵² , Oppose: FRB ¹⁵³	Support: ABA, ACB, FSR, ICBA Oppose: CG
113. Money Market Deposit Accounts (Reg D) Expand the number of permissible transfers from money market deposit accounts from 6 to 24 per month.		No Position: FRB ¹⁵⁴ , OCC ¹⁵⁵ Support: FDIC Conditional Support: OTS ¹⁵⁶	Support: ABA, ACB, CUANA, FSR, ICBA

¹⁴⁹ FRB opposes. Although the FRB would support some upward adjustment of the \$100 million statutory threshold, such as to reflect inflation and the growth in U.S. banking assets, the FRB does not believe it is appropriate or necessary to raise the statutory threshold to \$1 billion. The FRB has no objection to converting the statute's deposit-based threshold to an asset-based threshold set at an appropriate level.

¹⁵⁰ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁵¹ OCC cannot take a position on this specific item until legislative language is provided but the OCC supports item #169.

¹⁵² OTS is awaiting language.

¹⁵³ FRB opposes. The FRB supports an alternative amendment (item 68) that would raise this asset threshold to \$500 million.

¹⁵⁴ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁵⁵ OCC has no position until legislative language is provided but defers to the Fed on monetary policy concerns.

¹⁵⁶ OTS is awaiting language.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
Dale L. Leighty/Chairman/President, First National Bank of Las Animas (CO)/Independent Community Bankers of America - continued		
114. Expedited Funds Availability (Reg CC) Streamline and simplify these requirements.	No Position: FDIC ¹⁵⁷ , FRB ¹⁵⁸ , OCC ¹⁵⁹	Support: ABA, FSR, ICBA Oppose: CG
115. Electronic Fund Transfer Act (Reg E) <ul style="list-style-type: none">• Increase consumer liability from \$50 to \$500 for unauthorized transfers resulting from writing PIN on card or keeping PIN in the same location as the card; and• Extend notification requirement for a change in account terms or conditions contained in the initial Reg E disclosure from 21 days to 30 days consistent with Reg DD.	Support: FDIC, FRB second bullet only No Objection: OCC No Position: FRB first bullet Support Change in Notification Period: OTS	Support: ABA ¹⁶⁰ , CUNA, FSR, ICBA Support 2 nd Bullet: ACB Oppose: CG
116. Bank Holding Companies (Reg Y) - (H.R. 3505 § 616) <ul style="list-style-type: none">• Direct the Federal Reserve to increase the size limit for banks eligible for the Small Bank Holding Company Policy Statement on Assessment of Financial and Managerial Factors from \$150 million to \$1 billion;• Allow the holding company to qualify if it (1) is not engaged in any non-banking activities involving significant leverage, and (2) does not have a significant amount of outstanding debt held by the general public; and• Increase the size threshold for streamlined application and information requirements from \$150 million to \$1 billion.	No Objection: FDIC No Position: OCC, OTS Oppose: FRB ¹⁶¹	Support: ABA ¹⁶² , FSR, ICBA
117. Dividends (See also #31 & #81) Eliminate the requirement that the Comptroller of the Currency approve dividends that exceed a bank's net income, so long as the bank is well-managed and well-capitalized and will be well-capitalized following the declaration of the dividend.	No Objection: FDIC No Position: OTS Oppose: OCC ¹⁶³	Support: ABA, ACB, FSR, ICBA

¹⁵⁷ FDIC was unable to formulate a position since there was no legislative language for this proposal.

¹⁵⁸ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁵⁹ OCC has no position until legislative language is provided.

¹⁶⁰ ABA supports combining.

¹⁶¹ FRB opposes. The FRB believes that any changes to its Policy Statement should be carefully evaluated to ensure the changes do not compromise the safety and soundness of insured banks. The FRB expects to request public comment in the near future on proposed changes to the Policy Statement, including an increase in the \$150 million asset threshold.

¹⁶² ABA has asked for \$800M.

¹⁶³ OCC opposes. See OCC dividend proposal #31.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal		Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)			
Dale L. Leighty/Chairman/President, First National Bank of Las Animas (CO)/Independent Community Bankers of America - continued			
118. Branch Applications/Notices (See also #62) <ul style="list-style-type: none">Banks and thrifts that are well-managed and well-capitalized are permitted to branch without prior approval, provided they notify their federal regulator within 30 days; andExempt ATMs, branch acquisitions in the acquirer's service area, branches moved in the same local market, and branches closed due to emergency acquisition or FDIC assistance.	Oppose: FDIC No Position: OTS 1. See Comments #62: OCC Oppose: FRB ¹⁶⁴ 2. No Position: FRB ¹⁶⁵ , OCC ¹⁶⁶	Support: ABA, ACB ¹⁶⁷ , FSR, ICBA Oppose: CG	
119. SIPC Coverage Provide community banks with the same protection afforded other investors and other depository institutions for their brokerage account assets when a broker dealer fails.	Support: FDIC, OTS ¹⁶⁸ No Position: OCC	Support: ABA, ACB, FSR, ICBA	
120. Government Securities Act Amend the reporting requirements under the Government Securities Act so that banks do not need to send a statement whenever money is swept from a deposit account into a government repurchase agreement.	Support: FDIC, OTS No Position: OCC	Support: ABA, ACB, FSR, ICBA	
Marilyn F. James/CEO, NEPCO Federal Credit Union/Credit Union National Association			
121. Leasing Space in Building with Credit Union Offices in Underserved Area Allow credit union to lease excess space in a building or on property in an underserved area on which the credit union maintains a physical presence to other parties.		Support: CUNA, NAFCU ¹⁶⁹ Oppose: ABA ¹⁷⁰ , ICBA	
(Similar proposal by NAFCU)			

¹⁶⁴ FRB opposes. This amendment is inconsistent with the agencies' obligation to consider an institution's record of performance under the CRA in connection with the establishment of a branch.

¹⁶⁵ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁶⁶ OCC has no position until legislative language is provided.

¹⁶⁷ ACB presented its own proposal to eliminate unnecessary branch applications during testimony given on June 22, 2004

¹⁶⁸ OTS supports this item with item #52.

¹⁶⁹ NAFCU recommends using language from Section 205 of H.R. 2317.

¹⁷⁰ ABA opposes because it extends tax subsidies to real estate development activities.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal			Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)				
Marilyn F. James/CEO, NEPCO Federal Credit Union/Credit Union National Association - continued				
122. Reduce Restrictions on Member Business Loans Allow credit unions to make member business loans unless they are significantly undercapitalized at 4% or less.				Support: CUNA, NAFCU ¹⁷¹ Oppose: ABA, ACB, ICBA
123. Community Credit Union Membership Allow community credit unions to continue adding members from groups that were part of the field of membership before the credit union converted to a community charter but are now outside that community.				Support: CUNA, NAFCU ¹⁷² Oppose: ABA, ACB, ICBA
(Similar proposal by NAFCU)				
124. Credit Union ATMs Allow credit unions to serve underserved areas with an ATM.				Support: CUNA, NAFCU Oppose: ABA, ACB, ICBA
125. NCUA Board Membership Requirement Eliminate the requirement that only one NCUA Board member can have credit union experience.				Support: CUNA, NAFCU Oppose: ABA, ICBA
126. Increase in 1 Percent Borrowing Limit for CUSOs (See also #11 & #131) Raise the aggregate borrowing limit that currently restricts loans from credit unions to CUSOs from 1% to 3%.				Oppose: ABA, ICBA
Margot Saunders/National Consumer Law Center & Edmund Mierzwinski/U.S. PIRG (Consumer Groups)				
127. Clarify Application of TILA to Bounce Loans Require that bounce protection loans be treated like other extensions of credit under the Truth in Lending Act by requiring disclosure to consumers of the cost of this type of credit.	No Position: FDIC ¹⁷³ , FRB ¹⁷⁴		Support: CEO/ANCLC, CG Oppose: ABA, ACB, ICBA, No Position: CUNA ¹⁷⁵ , NAFCU ¹⁷⁶	

¹⁷¹ NAFCU recommends using the language from Section 203 of H.R. 2317.

¹⁷² NAFCU recommends the language found in Section 307 of H.R. 2317.

¹⁷³ FDIC was unable to formulate a position since there was no legislative language for this proposal.

¹⁷⁴ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁷⁵ CUNA supports the Federal Reserve Board's position that bounce loans should not be governed by the TILA.

¹⁷⁶ NAFCU supports the Federal Reserve Board's position that bounce loans should not be governed by the TILA.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony) Margot Saunders/National Consumer Law Center & Edmund Mierzwinski/U.S. PIRG (Consumer Groups) - continued		
128. Payday Lending Prohibit all banks from providing payday loans in violation of State laws, including through "rent-a-bank" arrangements.	No Position: FDIC ¹⁷⁷ , FRB ¹⁷⁸	Support: CFOA/NCLC ¹⁷⁹ , CG Oppose: ABA, ACB ¹⁸⁰
129. Update TILA and the Consumer Leasing Act Increase the jurisdiction limits and statutory penalties in TILA and the Consumer Leasing Act and provide for future adjustments for inflation.	No Position: FDIC ¹⁸¹ , FRB ¹⁸²	Support: CFOA/NCLC ¹⁸³ , CG Oppose: ABA, ACB, ICBA
130. Expand Application of EFTA Apply the protections of the EFTA to all forms of electronically processed payments, including all checks that are processed in whole or in part by the transmission of electronic information.	No Position: FDIC ¹⁸⁴ , FRB ¹⁸⁵	Support: CFOA/NCLC, CG Oppose: ABA, ACB, ICBA
William Cheney/President/CEO, Xerox Federal Credit Union/National Association of Federal Credit Unions		
131. Further Changes to Investment Limit in Credit Union Service Organizations (See also #11, #126) Give the NCUA Board authority to establish an appropriate investment limit for a credit union's investment in CUSOs.		Support: CUNA, NAFCU ¹⁸⁶ Oppose: ABA, ACB, ICBA

¹⁷⁷ FDIC was unable to formulate a position since there was no legislative language for this proposal.

¹⁷⁸ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁷⁹ CFOA and NCLC support this proposal. All banks, including state chartered banks, should be prohibited from providing exorbitantly priced payday loans in violation of state laws.

¹⁸⁰ ACB supports the OCC's authority to preempt state laws.

¹⁸¹ FDIC was unable to formulate a position since there was no legislative language for this proposal.

¹⁸² The FRB takes no position since the proposal lacks implementing statutory language.

¹⁸³ CFOA and NCLC support this proposal. The jurisdiction limits and statutory penalties of the Truth in Lending Act and the Consumer Leasing Act need to be brought up to 21st century standards.

¹⁸⁴ FDIC was unable to formulate a position since there was no legislative language for this proposal.

¹⁸⁵ The FRB takes no position since the proposal lacks implementing statutory language.

¹⁸⁶ NAFCU recommends the language found in Section 304 of H.R. 2317.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony) William Cheney/President/CEO, Xerox Federal Credit Union/National Association of Federal Credit Unions - continued		
132. Additional Changes to Credit Union Governance (See also #19) <ul style="list-style-type: none"> • Allow the NCUA Board to set the amount at which the credit union board of directors must approve a loan to, or guaranteed by, a director or member of the credit union supervisory or credit committee (currently set by statute at \$20,000); and • Allow the NCUA Board to determine policies for review of approved or pending applications for membership to the credit union (currently required monthly). 		Support: CUNA, NAFCU Neutral: ICBA Oppose: ABA
133. Reasonable Proximity Requirement Eliminate outdated requirement that a credit union have a physical presence within a reasonable proximity of the location of a group that the credit union wants to add to its field of membership.		Support: CUNA, NAFCU Oppose: ABA, ACB, ICBA
(Similar proposal by NAFCU) William A. Longbrake/Vice Chair, Washington Mutual Incorporated/Financial Services Roundtable		
134. Simplify Privacy Notice Direct the relevant Federal agencies to develop, by rulemaking, a summary privacy notice and an easy, standardized opt-out form, preempt State law so that the simple notice and opt-out form supersede State privacy notices and forms, and replace the annual notice requirement with a requirement that institutions distribute the summary notice when a customer relationship is established and whenever the terms of the institution's privacy policy change materially. Require that an institution's privacy policy be available and provided upon request.	Qualified Support: OTS ¹⁸⁷ No Objection: FDIC Oppose: FRB ¹⁸⁸ , OCC ¹⁸⁹	Support: ABA ¹⁹⁰ , ACB, FSR, ICBA ¹⁹¹ Oppose: CG

¹⁸⁷ OTS wants the notice to include information regarding the "constructive sharing" of information with third parties.

¹⁸⁸ The FRB opposes. The proposed amendment's timeframe could significantly disrupt the consumer testing process of a streamlined or "short-form" privacy notice created by a consultant hired by the banking agencies currently underway. This consumer testing is expected to be completed by September 30, 2005. The results of the consumer testing will be used to determine if changes to the agencies' privacy regulations, or whether legislative changes would be needed.

¹⁸⁹ OCC opposes. Timetable does not provide for adequate consumer testing to be conducted to determine appropriate information to be included in any simplified privacy notice.

¹⁹⁰ ABA supports proposal to eliminate unnecessary cost of providing privacy notices, including elimination of annual notice if there are not changes in privacy policy.

¹⁹¹ ICBA supports it if the simplified notice is optional.

Witness/Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulators' Position	Industry's and Consumer Group's Positions
(Similar proposals by other witnesses noted to the extent given in their testimony)		
William A. Longbrake/Vice Chair, Washington Mutual Incorporated/Financial Services Roundtable - continued		
135. Flexibility for Limited Purpose Credit Card Banks for CRA Compliance Permit limited purpose credit card banks to invest in, or directly offer, residential mortgage, small business and agriculture loans to help meet the credit needs of low and moderate income persons to meet the obligations of the CRA.	No Objection: OCC No Position: OTS Oppose: FDIC ¹⁹²	Support: ABA ¹⁹³ , ACB, FSR Oppose: CG
136. Anti-tying Modernization Amendment Limit anti-tying restrictions to products and services offered by a bank to individual consumers and small businesses or, alternatively, limit the restrictions to products and services offered by a bank to customers who are not "qualified investors" as defined in GLBA (in effect, exempt large corporate customers from the anti-tying provisions).	No Objection: FDIC No Position: OCC, OTS	Support: ABA, ACB, FSR, ICBA Oppose: CG

¹⁹² The FDIC opposes. The FDIC believes that there is insufficient information to support this proposal or to evaluate its implications.

¹⁹³ ABA prefers not to amend CRA.

SECTION IV-
REGULATORY RELIEF PROPOSALS

RECEIVED AFTER THE JUNE 22, 2004 BANKING COMMITTEE HEARING

The failure to state a position on these items should not be interpreted to mean support or opposition to any of the suggested concepts.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Board of Governors of the Federal Reserve System (FRB)		
137. (a) Restore Board's Authority to Determine the New Activities are "Closely Related to Banking" Restores the Board's ability to determine that activities are "closely related to banking" under section 4(c)(8) of the Bank Holding Company Act and thus permissible for all bank holding companies, including those that have not elected to become financial holding companies. Bank holding companies would still have to become a financial holding company under the GLB Act to engage in merchant banking activities, and expanded securities underwriting, insurance sales and insurance underwriting activities.	Support: FRB, OTS ¹⁹⁴ No Position: FDIC Oppose: OCC ¹⁹⁵	(a) Support: ABA, FSR No Objection: ACB, ICBA
137. (b) Permit Bank Holding Companies to Engage in Insurance Agency Activities - (alternative to (a)) Allow all bank holding companies (including those that have not elected to become financial holding companies) to act as agent in the sale of insurance. Most banks are permitted to engage in insurance sales activities either directly or indirectly through a subsidiary.	Support: FRB No Position: FDIC	(b) Support: ABA, FSR, ICBA No Objection: ACB,
138. Interstate Mergers between Insured Banks and Savings Associations or Trust Companies - (H.R. 3505 § 401) Allow an insured bank to directly acquire, by merger, an insured savings association or uninsured trust company in a different home state without first converting the target savings association or trust company into an insured bank.	Support: FDIC, FRB, OTS No Objection: OCC ¹⁹⁶	Support: ACB, FSR No Objection: ABA, ICBA

¹⁹⁴ OTS supports but only with comparable OTS authority with regard to the S&LHC's.

¹⁹⁵ OCC objects unless an amendment is included to provide parity to national banks also to engage in general insurance agency activities without necessity of establishing a financial subsidiary structure. See OCC Amendment #1.

¹⁹⁶ OCC does not object (same language included in § 401 of HR 3505) if additional language from § 401 of HR 3505 also is included that would amend the National Bank Consolidation and Merger Act to facilitate interstate consolidations and mergers of national bank trust companies. The OCC also strongly supports other provisions in § 401 that would repeal the state opt-in requirement for *de novo* interstate branching for national banks. See Item #26.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Board of Governors of the Federal Reserve System (FRB) - continued		
139. Modify Cross-Marketing Restrictions on Merchant Banking and Insurance Company Investments - (H.R. 3505 § 501) Allow depository institution subsidiaries of an FHC to engage in cross-marketing activities with portfolio companies that are held under the GLB Act's merchant banking authority to the same extent as such activities are currently permissible for portfolio companies held under the GLB Act's insurance company investment authority. The amendment also would allow the depository institution subsidiaries of an FHC to engage in cross-marketing activities with a portfolio company held under either the merchant banking or insurance company investment authority if the FHC does not control the portfolio company.	Support: FRB No Position: OCC, OTS Oppose: FDIC	Support: ABA, FSR No Objection: ACB Oppose: ICBA
140. Provide Board with Discretion Concerning the Control of Shares Held by Trusts (H.R. 3505 § 502) Permit the Board to waive the attribution rule in section 2(g)(2) of the BHC Act (12 U.S.C. 1841(g)(2)) in appropriate circumstances. This attribution rule currently provides that, for purposes of the Bank Holding Company Act, a company is deemed in all circumstances to own or control any shares that are held by a trust (such as an employee benefit plan) for the benefit of the company or its shareholders or employees.	Support: FRB, OTS ¹⁹⁷ No Position: FDIC, OCC	Support: ABA, ACB, ICBA No Position: FSR
141. Authorization for Member Banks to Use Pass-Through Reserve Accounts - (H.R. 1224 and S. 1586) Permit banks that are members of the Federal Reserve System to count as reserves the deposits in other banks that are "passed through" by those banks to the Federal Reserve as required reserve balances. Nonmember banks already are able to use such pass-through reserve accounts.	Support FDIC, FRB, OCC ¹⁹⁸ No Position: OTS	No Objection: ABA, ACB, FSR, ICBA
142. Restriction on the Ability of Convicted Individuals from participating in the Affairs of a BHC or Edge or Agreement Corporation – (H.R. 3505 § 613) Prohibit a person convicted of a criminal offense involving dishonesty, breach of trust or money laundering from participating in the affairs of a bank holding company (other than a foreign bank) or an Edge or Agreement Corporation without the consent of the Board. The amendment also would provide the Board greater discretion to prevent convicted individuals from participating in the affairs of a nonbank subsidiary of a bank holding company.	Support: FDIC ¹⁹⁹ , FRB, OCC ²⁰⁰ , OTS ²⁰¹	Support: ACB No Objection: ABA, FSR, ICBA

¹⁹⁷ OTS supports but only with comparable OTS authority with regard to S&LHC's.

¹⁹⁸ OCC supports (same language included in HR 1224, as passed by the House on 5/24/05, and S. 1586, as introduced in the Senate on 7/29/05).

¹⁹⁹ FDIC support conditioned on similar authority for FDIC to remove individuals from subsidiaries under proposed section 8(e)(2)(A)(iv).

²⁰⁰ OCC supports but with an amendment to this item and § 613 of HR 3505 to give the Federal banking agencies authority under 12 U.S.C. 1829 to remove such persons from nonbank subsidiaries of depository institutions. See OCC amendment #2.

²⁰¹ OTS supports but only with comparable OTS authority with regard to the S&LHC's

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Board of Governors of the Federal Reserve System (FRB) - continued		
143. Elimination of Outdated Provisions of the Bank Holding Company Act – (H.R. 3505 § 804) Eliminates certain outdated provisions of the BHC Act that no longer have any effect.	Support: FRB, OTS No Position: FDIC, OCC	No Objection: ABA, ACB, FSR, ICBA
Federal Deposit Insurance Corporation (FDIC)		
144. (a) Technical Amendment to Section 8(i) of the Federal Deposit Insurance Act - (H.R. 3505 § 614) Clarifies that a Federal banking agency may take enforcement action against a person for conduct that occurred during his or her affiliation with a banking organization even if the person resigns from the organization, regardless of whether the enforcement action is initiated through a notice or an order.	Support: FDIC, FRB, OCC, OTS	(a) Support: ACB No Objection: ABA, FSR, ICBA
144. (b) Technical Amendment to Section 206(k) of the Federal Credit Union Act Section 206(k) (3) of the FCU Act parallels Section 8(i) of the FDI Act. If Section 8(i) is amended, the same amendment should be made to the FCU Act.	(b) Support: NCUA Neutral: NASCUS	(b) No Position: CUNA, NAFCU
145. Require Consideration of Potential Adverse Effects on Insurance Funds Resulting from Bank Merger or Holding Company Organization Amend the Bank Merger Act and Bank Holding Company Act to require consideration of the potentially adverse effects on the insurance funds of any proposed bank merger transaction or holding company formation or acquisition.	Support: FDIC, OTS See Footnote: OCC ²⁰² Has Concerns: FRB ²⁰³	No Objection: ABA, FSR, ICBA No Position: ACB
146. Clarify Bases for Disapproval and Extension of Time to Consider Change in Control Notices (H.R. 3505 § 409) Amend the Change in Bank Control Act to clarify the bases for which change-in-control notices may be disapproved and to expand the bases for extensions of time for consideration of certain notices raising novel or significant issues.	Support: FDIC, FRB, OCC, OTS	No Objection: ABA, ACB, FSR, ICBA

²⁰² The OCC is not convinced the amendment is necessary. The criteria considered by the banking agencies under current law examines the same factors that would be applied to determine the effect on the insurance funds; under both the Bank Merger Act and the Bank Holding Company Act, the respective Federal banking agency must consider the financial and managerial resources and the future prospects of the institutions involved in the transactions before the transaction may be approved. See 12 U.S.C. §§ 1828(c)(5); 1842(c)(2)

²⁰³ The FRB believes that the proposed amendment is unnecessary. The Bank Merger Act and the Bank Holding Company Act already require the appropriate federal banking agency to consider the financial and managerial resources and future prospects of the companies or depository institutions involved in any bank merger or acquisition proposal. Consistent with these factors, the agencies already have the ability to, and do, consider the capital strength, risk management controls, business plans, and managerial experience of the organizations involved in a bank merger or acquisition and potential likelihood that the combined organization may fail and present a risk to the deposit insurance fund.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Federal Deposit Insurance Corporation (FDIC) - continued		
147. (a) Clarification of Enforcement Authority – (H.R. 3505 § 614) Amend section 8 of the Federal Deposit Insurance Act to clarify authority to enforce conditions imposed in connection with a notice, including a change-in-control notice.	Support: FDIC, FRB, OCC ²⁰⁴ , OTS	(a) No Objection: ABA, ACB, FSR, ICBA
147. (b) Clarification that Change in Control Conditions Are Enforceable Section 206 of the FCU Act has parallel sections to portions of Section 8 of the FDI Act. The FCU Act should be amended in the same manner as the FDI Act.	(b) Support: NCUA Neutral: NASCUS	(b) No Position: CUNA, NAFCU
148. Authority to Enforce Conditions on the Approval of Deposit Insurance Amend section 8 of the Federal Deposit Insurance Act to provide each of the other three appropriate Federal banking agencies with express authority to enforce conditions imposed in writing in connection with the approval of an institution's application for deposit insurance.	Support: FDIC, FRB ²⁰⁵ , OCC, OTS	Support: ACB, ICBA No Objection: ABA, FSR
149. Enforcement of Agreements and Conditions (H.R. 1375 § 405 - 108th Congress) (Not in newly introduced House bill) Clarify that the Federal banking agencies may enforce (i) conditions imposed in writing, and (ii) written agreements, in which an institution-affiliated party agreed to provide capital to the institution without first establishing that the institution-affiliated party was unjustly enriched. It also clarifies existing authority of the FDIC as receiver or conservator to enforce written conditions or agreements entered into by insured depository institutions, institution-affiliated parties, and controlling shareholders. The proposal also eliminates the requirement that an insured depository institution be undercapitalized at the time of a transfer of assets from an affiliate or controlling shareholder to prevent a claim against a Federal banking agency for the return of the assets under bankruptcy law.	Support: FDIC, OCC ²⁰⁶ , OTS No Position: FRB	No Objection: ABA, ACB, FSR, ICBA

²⁰⁴ OCC supports § 405 of HR 3505 (addresses this item and Item #149) with certain technical changes supported by the federal banking agencies. See OCC amendment #3.

²⁰⁵ The FRB supports this provision but wants to clarify that it is the appropriate federal banking agency for a depository institutions that would have primary authority to enforce a written condition imposed by another federal banking agency. Section 8(t) of the Federal Deposit Insurance Act gives the FDIC "back-up" authority to enforce a written condition against an insured depository institution that the institution's appropriate federal banking agency has the authority to enforce against the institution. The FDIC's back-up enforcement authority does not extend to bank holding companies, and only the Board has the authority to bring an enforcement action against a bank holding company or a nonbank subsidiary of a bank holding company.

²⁰⁶ OCC supports § 405 of HR 3505 with technical amendments (see comments and OCC amendment associated with Item #147).

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Federal Deposit Insurance Corporation (FDIC) - continued		
150. Clarification of Section 8(g) Prohibition Authority (H.R. 1375 § 606 - 108th Congress) (Not in newly introduced House bill) Clarify that the appropriate Federal banking agency may suspend or prohibit individuals charged with certain crimes from participation in the affairs of <i>any</i> depository institution and not solely the insured depository institution with which the institution affiliated party is or was associated. Further clarify that the section 8(g) remedy may be imposed even where the institution with which the individuals were associated ceases to exist. The proposed amendment also allows the appropriate Federal banking agency to suspend or remove an individual who attempts to become involved in the affairs of an insured depository institution after being charged with a crime involving dishonesty or a breach of trust and clarifies the standards and process for issuing a suspension or removal order in situations where an individual terminates his or her affiliation with one depository institution after being charged with a crime, but then becomes or seeks to become affiliated with another.	Support: FDIC, FRB, OTS Does Not Support: OCC ²⁰⁷	Support: ACB No Objection: ABA, ICBA No Position: FSR
151. Cross Guarantee Authority (H.R. 3505 § 407) Clarify the scope of cross guarantee liability to include all insured depository institutions commonly controlled by the same company.	Support: FDIC, FRB, OCC, OTS	No Objection: ABA, ACB, FSR, ICBA
152. Golden Parachute Authority (H.R. 3505 § 408) Clarify that authority to prohibit golden parachute payments includes nonbank holding companies, as well as depository institution holding companies.	Support: FDIC, FRB, OCC, OTS	No Objection: ABA, ACB, FSR, ICBA
153. Parity in Standards for Institution-Affiliated Parties (H.R. 1375 § 614 - 108th Congress) Remove the "knowing or reckless" requirement from the standard of proof required to make independent contractors liable as institution-affiliated parties.	Support: FDIC, OCC, OTS No Position: FRB	No Objection: ABA No Position: FSR Oppose: ACB, ICBA
154. Clarification of Certain Application Requirements for Optional Conversion of Federal Savings Associations Clarify that conversions, which result in more than one bank, would continue to require deposit insurance applications from the resulting institutions, as well as review and approval by the appropriate Federal banking agency. In addition, the amendment would clarify that no applications under the Bank Merger Act would be required for such conversions.	Support: FDIC, OTS Recommended an Additional Amendment: OCC ²⁰⁸ No Position: FRB	No Objection: ABA, ICBA No Position: ACB, FSR

²⁰⁷ OCC does not support. In lieu of Item #150, support § 609 of HR 3505 as reported by the House Financial Services Committee which includes technical amendments supported by the federal banking agencies.

²⁰⁸ OCC recommends an additional amendment deleting the requirement that a federal savings association and any branch to be retained upon conversion must be operational before 12/19/99. See OCC amendment #4.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal		Regulator's Position	Industry's & Consumer Group's Positions
Federal Deposit Insurance Corporation (FDIC) - continued			
155. (a) Receiver's or Conservator's Consent Requirement Require the consent of the receiver or conservator before a party to a contract to which the depository institution is a party could exercise any right or power to terminate, accelerate, or declare a default under any contract, or to obtain possession of or exercise control over any property of the institution or affect any contractual rights of the institution.		Support: FDIC, FRB, OCC ²⁰⁹ , OTS	(a) No Objection: ABA, ACB No Position: FSR Do Not Support: ICBA
155. (b) Receiver's or Conservator's Consent Requirement Require the consent of the receiver or conservator before a party to a contract to which the credit union is a party could exercise any right or power to terminate, accelerate, or declare a default under any contract, or to obtain possession of or exercise control over any property of the credit union or affect any contractual rights of the credit union.		(b) Support: NCUA Neutral: NASCUS	(b) No Position: CUNA, NAFCU
156. (a) Acquisition of FICO Scores Amend the Fair Credit Reporting Act to define an FDIC request for FICO scores as part of its preparation for a resolution as a permissible purpose, enabling the FDIC to obtain FICO scores by contacting credit reporting agencies and to obtain current consumer credit reports.		Support: FDIC, OTS No Position: FRB, OCC	(a) No Objection: ABA, ICBA No Position: ACB, FSR
156. (b) Acquisition of FICO Scores Amend the Fair Credit Reporting Act to define a NCUA request for FICO scores as part of its preparation for a resolution as a permissible purpose, enabling the NCUA to obtain FICO scores by contacting credit reporting agencies and to obtain current consumer credit reports.		(b) Support: NCUA Neutral: NASCUS	(b) No Position: CUNA, NAFCU

²⁰⁹ OCC supports technical changes to ensure that rights under qualified financial contracts and netting contracts are not affected (see OCC amendment #5); also, considering whether to recommend corresponding amendments to provide receivers and conservators of *uninsured* national banks and Federal branches and agencies that are resolved under national banking laws with the same authority that receivers and conservators have with respect to insured depository institutions under the Federal Deposit Insurance Act.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Federal Deposit Insurance Corporation (FDIC) - continued		
157. (a) Elimination of Criminal Indictments Against Receiverships Amend the Federal Deposit Insurance Act to require that any criminal indictment against a bank be dismissed, if the FDIC is appointed receiver of that bank.	Support: OTS No Position: FRB, OCC See Footnote: FDIC ²¹⁰	(a) No Objection: ABA, FSR, ICBA No Position: ACB
157. (b) Elimination of Criminal Indictments Against Receiverships Amend the Federal Credit Union Act to require that any criminal indictment against a credit union be dismissed, if the NCUA is appointed receiver of that credit union.	(b) Support: NCUA Neutral: NASCUS	(b) Support: CUNA, NAFCU
158. (a) Resolution of Deposit Insurance Disputes Clarify that the APA standard of review, the 60-day limitation period, and U.S. district court jurisdiction apply to the FDIC's final determination of insurance coverage whether made pursuant to procedural regulations or not.	Support: FDIC, OTS No Position: FRB, OCC	(a) No Objection: ABA, ACB, FSR, ICBA
158. (b) Resolution of Credit Union Deposit Insurance Disputes Section 207(d) of the FCU Act (12 U.S.C. 1787(d)) parallels Section 11(f) of the FDI Act. The FCU Act should be amended in the same manner as the FDI Act.	(b) Support: NCUA Neutral: NASCUS	(b) No Position: CUNA, NAFCU
159. Judicial Review of Receivership Appointments - (H.R. 3505 § 402 - 109th Congress²¹¹) Amend the Bank Conservation Act and the Federal Deposit Insurance Act to provide greater consistency regarding the time an insured depository institution has to challenge the appointment of a receiver.	Support: FDIC, OCC, OTS No Position: FRB	No Objection: ABA, ACB, FSR, ICBA

²¹⁰ FDIC is reviewing further and not seeking language at this time.

²¹¹ As included in H.R. 1375 from the 108th Congress, this provision would amend the National Bank Receivership Act, the Federal Deposit Insurance Act, and the Federal Credit Union Act to establish a 30-day limit for seeking judicial review of the appointment of a receiver or liquidating agent. This amendment appears to have been drafted to address inconsistencies and inadvertent omissions in banking statutes. The National Bank Receivership Act places no statutory limit on the time during which a national bank may challenge the appointment of a receiver. (See 12 U.S.C. § 191). The Federal Deposit Insurance Act includes a general 30-day limit for seeking judicial review of FDIC's appointment as receiver, but this provision does not specifically include all circumstances when FDIC is the receiver. (See 12 U.S.C. § 1821(c)(7)). The Federal Credit Union Act does not contain similar omissions or inconsistencies, and provides 10 days for insured credit unions to challenge the appointment of NCUA as liquidating agent. (See 12 U.S.C. § 1787(a)(1)). NCUA believes that this 10-day period allows sufficient time for insured credit unions to bring action to challenge the appointment of NCUA as liquidating agent. Extending this time period to 30 days would only add to the period of uncertainty and delay the payout to account holders by an additional 20 days. Unlike the banking statutes, the Federal Credit Union Act is not in need of clarification on this point, and the NCUA request that the portion of proposal #159 that amends section 206(a)(1) of the Federal Credit Act (12 U.S.C. 1787 (a)(1)) be deleted.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Federal Deposit Insurance Corporation (FDIC) - continued		
160. (a) Recordkeeping Amendment (H.R. 3505 § 604 - 109th Congress) Permit the FDIC to destroy records that are 10 or more years old at the time of its appointment as receiver, unless directed not to do so by a court or a government agency or prohibited by law.	Support: FDIC, OCC, OTS No Position: FRB	Neutral: NASCUS (a) No Objection: ABA, ACB, FSR, ICBA
160. (b) Recordkeeping Amendment Permit the NCUA to destroy records that are 10 or more years old at the time of its appointment as receiver, unless directed not to do so by a court or a government agency or prohibited by law.	(b) Support: NCUA	(b) Support: CUNA, NAFCU

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Federal Deposit Insurance Corporation (FDIC) - continued		
161. (a) Preservation of Record by Optical Imaging and Other Means (H.R. 3505 § 605 – 109th Congress) Permit the FDIC to destroy records that are 10 or more years old at the time of its appointment as receiver, unless directed not to do so by a court or government agency or prohibited by law.	Supports: FDIC, FRB, OCC, OTS	(a) No Objection: ABA, ACB, FSR, ICBA
161. (b) Preservation of Record by Optical Imaging and Other Means Permit the NCUA to destroy records that are 10 or more years old at the time of its appointment as receiver, unless directed not to do so by a court or government agency or prohibited by law.	(b) Support: NCUA Neutral: NASCUS	(b) Support: CUNA, NAFCU
162. Exclude Advisory Committees to the Banking Agencies from the Federal Advisory Committee Act Permit the OCC, FDIC, and OTS to establish and use advisory committees on the same basis as the Federal Reserve System.	Support: OCC, OTS No Position: FRB Withdrawn: FDIC	No Objection: ABA, FSR, ICBA No Position: ACB Oppose: CG
163. Technical Amendments to Information Sharing Provision Amend section 11(i) of the Federal Deposit Insurance Act to clarify that the FDIC is a “covered agency” for purposes of privilege, regardless of the type of failed depository institution to which transferred information pertains.	Support: FDIC, OTS No Position: FRB, OCC	Support: ACB No Objection: ABA, FSR, ICBA
164. Technical and Conforming Amendments Relating to District Banks (H.R. 3508 § 123 - 109th Congress is the language supporting this provision) Technical and conforming amendments reflecting the transfer of authority for the supervision and regulation of District banks from the Office of the Comptroller of the Currency to the Federal Deposit Insurance Corporation.	Support: FDIC, FRB, OCC ²¹² , OTS	No Objection: ABA, ACB, FSR, ICBA
Office of the Comptroller of the Currency (OCC)		
165. Enhancing the Authority for National Banks to Make Community Development Investments - (H.R. 3505 § 112) Increase the maximum limit for investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families, either directly or by purchasing interests in an entity primarily engaged in making these investments from 10% to 15%.	Support: OCC, OTS ²¹³ No Position: FDIC Has Concerns: FRB ²¹⁴	Support: ABA, ACB, FSR, ICBA

²¹² OCC supports (also included in DC authorization bill, HR 3508, which passed the House on 12/14/05 but has not yet cleared the Senate).

²¹³ OTS supports, but only with corresponding increase for savings associations in #55.

²¹⁴ The FRB has concerns. The FRB supports efforts to help banks meet the community development needs of their local communities. However, the FRB is concerned that the public welfare and community development standards, as currently interpreted may be misused to allow investments that do not serve the community development needs of local communities. The FRB is willing to work with the OCC to ensure that investments made under this authority are properly focused on helping meet the public welfare needs of the community.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Office of the Comptroller of the Currency (OCC) - continued		
166. Parity and Flexibility for a National Bank to Relocate Its Main Office Provide authority to national banks to designate any office resulting in an intrastate merger or consolidation as its main office as is currently permitted if it were involved in an interstate merger or consolidation. Also, provide a national bank more flexibility when relocating its main office to a branch location within the same state.	Support: OCC No Position: FDIC, FRB, OTS Oppose: CSBS	Support: ABA, ACB, FSR, ICBA Oppose: CG
National Credit Union Administration (NCUA)		
167. Net Worth Amendment (H.R. 1042 & H.R. 3505 § 314) (Same as #24) Amend the definition of <i>net worth</i> in the Federal Credit Union Act to include amounts previously held as <i>retained earnings</i> by other credit unions prior to a merger, thus effectively including the combined retained earnings of all merged credit unions in the net worth of the resulting credit union.	Support: NASCUS, NCUA No Position: FDIC, OCC	Support: CUNA, FSR, NAFCU ²¹⁵ No Objection: ACB, ICBA Do Not Support: ABA
Credit Union National Association (CUNA)		
168. (a) Eliminate or Modify the Limitation on Credit Union Experience for NCUA Board Members - (See also #125) Eliminate the current Federal Credit Union Act limitation that not more than one NCUA Board member may have immediate or recent involvement with an insured credit union at the time of appointment as a Board member or modify the limitation into a requirement that a minimum of not less than one Board member shall have immediate or recent involvement with an insured credit union at the time of appointment as a Board member.	No Objection: NASCUS, NCUA No Position: FDIC, OCC	Support: CUNA, FSR, NAFCU Oppose: ABA, ACB, ICBA
National Association of State Credit Union Supervisors (NASCUS)		
168. (b) Eliminate or Modify the Limitation on Credit Union Experience for NCUA Board Members Include a provision in the Federal Credit Union Act that one NCUA Board member shall have state credit union supervisory experience.	Support: NASCUS No Position: NCUA	Do Not Oppose: ABA ²¹⁶ , ACB ²¹⁷ , ICBA ²¹⁸ Oppose: CUNA ²¹⁹ , NAFCU

²¹⁵ NAFCU supports. Currently credit union mergers are accounted for by using the “pooling method” meaning that the net worth of each merging credit union is combined to form the net worth of the surviving credit union. However, the Financial Accounting Standards Board has proposed eliminating pooling and imposing the “purchase method” of accounting on credit union mergers. Under the purchase method of accounting only the surviving credit union’s retained earnings count as net worth for PCA purposes. Consequently, the surviving credit union may have trouble meeting PCA requirement, unless credit union net worth is redefined. NAFCU supports including language from H.R. 1042, the Net Worth Amendment for Credit Unions Act in any regulatory relief package. This amendment is intended to address a narrow and technical accounting issue and in this process simply maintain the status quo with respect to merging credit unions

²¹⁶ ABA does not oppose as long as the proposal does not include 168(a), the state supervisory experience is substantial and at a high level, and is not used to circumvent the restriction on recent credit union involvement.

²¹⁷ ACB does not oppose as long as the proposal does not include 168(a), the state supervisory experience is substantial and at a high level, and is not used to circumvent the restriction on recent credit union involvement.

²¹⁸ ICBA does not oppose as long as the proposal does not include 168(a), the state supervisory experience is substantial and at a high level, and is not used to circumvent the restriction on recent credit union involvement.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Conference of State Bank Supervisors (CSBS)		
169, 18-Month Exam Cycle for Certain Small Institutions (H.R. 3505 § 607) (See also 42, 68, & 112) Authorize an 18-month exam cycle for well-capitalized well-managed institutions below \$1 billion in assets.	Support: OCC, OTS Prefers #68: FDIC, FRB ²²⁰	Support: ABA, ACB, FSR, ICBA
170. Deposit Insurance for International Bank Branches Authorize the Federal Deposit Insurance Corporation to grant deposit insurance to branches of international banks to do business in the United States.	No Position: FRB ²²¹ , OCC ²²² Oppose: FDIC	No Position: FSR Oppose: ABA, ACB, ICBA
American Bankers Association (ABA)		
171. Clarification of Cross Marketing Provision (H.R. 3505 § 501) (Same as #139) Amend the Bank Holding Company Act to permit financial holding companies to cross market their commercial activities if they own or control less than twenty-five percent of the total equity or any class of voting security of a non-financial company.	Support: FRB No Position: OCC, OTS Oppose: FDIC	Support: ABA, FSR No Objection: ACB Oppose: ICBA
172. Exclude Certain Insurance Products from FDIA Disclosure Requirement Amend the investment risk disclosure requirement of section 47 of the FDIA to exclude credit insurance, fixed rate annuities, and term life insurance.	No Position: OCC Has Concerns: FRB ²²³ Oppose: FDIC, OTS	Support: ABA, ICBA No Objection: ACB No Position: FSR Oppose: CG

²¹⁹ CUNA opposes unless Congress eliminates the requirement that no more than one NCUA Board Member may have immediate or recent involvement with an insured credit union at the time of appointment as a Board Member; otherwise, no position at this time.

²²⁰ The FRB supports an alternative amendment (proposal #68) that would raise this asset cutoff to \$500 million. The FRB, however, does not believe this threshold should be raised to \$1 billion. Institutions that have assets approaching \$1 billion tend to have more complex risk profiles than institutions with assets of less than \$500 million and may operate business lines on a regional or national basis and, thus, warrant more frequent on-site exams.

²²¹ The FRB has no position since this proposal lacks statutory language.

²²² OCC has no position until legislative language is provided.

²²³ The FRB does not believe it would be appropriate to completely exempt credit insurance products from the insurance sales disclosure requirements of section 47. The federal banking agencies previously have noted that the disclosure requirements in section 47 concerning the lack of FDIC insurance or government guarantees help prevent possible confusion about the nature and status of credit insurance products. In addition, while creditors typically provide certain disclosures to consumers pursuant to the Truth in Lending Act when credit insurance is sold in connection with an extension of credit, the disclosures required by section 47 differ from, and are an important supplement to the Truth in Lending Act disclosures. The FRB also does not believe it would be appropriate to exempt all fixed-rate annuities from the investment risk disclosures provided for by section 47. Fixed annuities can be structured in a wide variety of ways and some products currently marketed or sold as "fixed" or "fixed rate" annuities may involve investment risk, particularly when viewed through the eyes of an unsophisticated consumer.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
American Bankers Association (ABA) - continued		
173. Safe Harbor from the BHCA Attribution Rules for Shares Held in Employee Benefit Plans, Mutual Funds and Common and Collective Investment Trust Funds - (H.R. 3505 § 502) Amend the attribution rules of section 2(g)(2) of the Bank Holding Company Act to provide a safe harbor for: (1) shares held in trust through a regulated employee benefit plan; (2) mutual fund shares held in trust provided any investment adviser or affiliate with the power to vote 25% of the shares of the investment company transfers the vote to the beneficial owners or an independent entity; or (3) for shares held in a common or collective fund. The amendment also provides the Federal Reserve Board with the authority to grant additional exemptions to 2(g) (2).	Support: OTS ²²⁴ No Position: FDIC, OCC ²²⁵ Prefers #140: FRB ²²⁶	Support: ABA, ACB No Objection: ICBA No Position: FSR
174. Replace GLBA's Annual Privacy Disclosure Requirement with a Requirement for an Initial Disclosure and Subsequent Disclosure upon Material Change in Privacy Policy - (Similar to H.R. 3505 § 617) Amend section 503(a) of GLBA to replace the annual privacy notice requirement with a requirement that notice must be given at the time that a customer relationship is established with a consumer and whenever there is a material change in the privacy policies of the financial institution.	Support: OCC ²²⁷ OTS prefers #63 No Position: FRB Oppose: FDIC	Support: ABA, ACB, CUNA, FSR, ICBA Oppose: CG
175. Amend Section 404 of the Sarbanes-Oxley Act Amend the internal control and management attestation requirements of section 404 of the Sarbanes Oxley Act to exempt financial institutions with \$1 billion or less in assets that are subject to Section 36 of the Federal Deposit Improvement Act.	No objection: OCC No Opposition: OTS No Position: FRB Oppose: FDIC	Support: ABA, ACB, FSR, ICBA Oppose: CG
176. Seasoned Customer CTR Exemption - (H.R. 3505 § 701) Provide an exemption for domestic financial institutions from filing Currency Transaction Reports (CTRs) for transactions between the domestic institution and "seasoned customers" of the institution. A "seasoned customer" would be defined as a business customer of the institution that has been the subject of the institution's Customer Identification Program (CIP) and that has maintained an account for at least 12 months and has engaged in multiple currency transactions subject to CTR reporting.	Defer to FinCen: OCC, OTS No Position: FRB See Footnote: FDIC ²²⁸	Support: ABA, ACB, CUNA, FSR, ICBA, NAFCU

²²⁴ OTS supports, but only with comparable OTS authority.

²²⁵ OCC has no position. FRB's amendment included in § 502 of HR 3505 would give the FRB the discretion to exclude. See item #140.

²²⁶ The FRB supports #140, which gives the Board discretion to waive the attribution rule in section 2(g)(2) of the Bank Holding Company Act on a case-by-case basis. Proposal #173, however, would create three statutory exceptions that the FRB believes are too broad and may allow a company to use a trust that it or its management controls to evade the restrictions in the Bank Holding Company Act on the acquisition of banks and nonbanking firms.

²²⁷ OCC supports concept but prefers version included in § 617 of HR 3505. As reported by the House Financial Services Committee, § 617 provides an exception to the Gramm-Leach-Bliley Act's (GLBA) annual notice requirement if the financial institution (1) has not changed its privacy policies, (2) discloses nonpublic personal information to third parties only pursuant to the exceptions in GLBA, and (3) does not share any information with affiliates that is subject to a consumer's opt-out rights under the Fair Credit Reporting Act.

²²⁸ FDIC understands that FinCEN is working to address this issue.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Financial Services Roundtable (FSR)		
177. Direct the Federal Agencies to Finalize the Pending Simplified Privacy Notices, and for Other Purposes Direct the agencies to finalize a proposal for a uniform simplified privacy notice to satisfy the requirements of the Gramm-Leach-Bliley Act.	No Objection: OCC ²²⁹ Has Concerns: FRB ²³⁰ Oppose: FDIC, OTS	Support: FSR Support if Optional: ABA, ACB, ICBA No Position: CUNA ²³¹ Oppose: CG
178. Enhanced Flexibility for Credit Card Banks to Meet CRA Obligations - (Similar to H.R. 3505 § 506) Permit credit card banks to make community development loans to help meet their CRA obligation.	No Position: FRB, OCC ²³² , OTS Oppose: FDIC	Support: ABA, FSR No Objection: ACB, ICBA Oppose: CG
179. Public Welfare Investments by Credit Card Banks - (Similar to H.R. 3505 § 506) Permit an institution that engages primarily in credit card operations to make loans that would help meet the credit needs of low-and-moderate income people and neighborhoods while maintaining the institution's Bank Holding Company Act exemption.	Support: FRB ²³³ No Position: OCC ²³⁴ , OTS Oppose: FDIC	Support: ABA, FSR No Objection: ACB, ICBA Oppose: CG
180. Good Faith Basis for Non-filing of Suspicious Activity Reports Require publication of proposed regulations before the end of the six-month period beginning on the date of the enactment of this Act that provide a good faith basis for not filing a suspicious activity report, clarifying that isolated incidents of non-filings should not trigger an enforcement action against a financial institution, as long as that institution has implemented a satisfactory anti-money laundering program and, as part of that program, generally adheres in good faith to the requirement to file suspicious activity reports.	Defer to FinCen: OCC Has Concerns: FRB ²³⁵ Oppose: FDIC, OTS	Support: CUNA, FSR ²³⁶ No Objection: ABA, ACB, ICBA Oppose: CG

²²⁹ OCC does not object to the concept of this amendment but oppose the three-month deadline in the amendment as drafted; instead amendment should allow adequate time for the agencies to complete the current consumer testing that is being conducted and to draft a final rule.

²³⁰ The FRB has concerns. The federal banking agencies, along with the NCUA, CFTC, FTC, and SEC, already have solicited comments from the public on ways to improve the privacy notices that financial institutions must provide consumers under the GLBA, including whether institutions should be permitted to use a streamlined or "short-form" privacy notice and encouraged the agencies to engage in consumer testing to ensure that any short-form notice developed ins understandable and an improvement over existing notices. That process is well underway and is continuing. The proposed amendment could significantly disrupt this ongoing process and require the agencies to establish a simplified notice before the agencies have sufficient time to evaluate the results of consumer testing and solicit and review public comments on any proposed changes.

²³¹ CUNA wants to see what the agencies are going to come up with, which may change the rules before supporting anything.

²³² OCC has no position (substantially included in § 506 of HR 3505).

²³³ The FRB supports. Because credit card banks are evaluated for CRA purposes under a special community development test, there is no need to authorize them to make non-credit card loans for CRA purposes unless those loans would qualify as community development loans.

²³⁴ OCC has no position (substantially included in § 506 of HR 3505).

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Financial Services Roundtable (FSR) - continued		
181. Amendment to Effectuate Congressional Intent for Revised Definition of Broker and Dealer in the Securities Exchange Act of 1934 Amend GLBA by striking sections 201 and 202 which force many traditional banking activities out of the bank and into SEC registered brokers and dealers.	Support: OTS ²³⁷ See Footnote: FDIC ²³⁸ , OCC ²³⁹ No Position: FRB	Support: ABA, ACB ²⁴⁰ , FSR, ICBA Needs More Detail: CUNA
182. Savings Association Acting as Agents for Affiliated Depository Institutions (H.R. 3505 § 505) This amendment would (1) repeal the limitations in current law for savings associations to act as agents for affiliated banks, and (2) permit savings associations to act as agents for any affiliated bank or savings association, so that savings association and banks are treated equally for purposes of agency relationships.	Support: OTS No Position: FDIC, OCC ²⁴¹ Has Concerns: FRB ²⁴²	Support: ACB, FSR No Objection: ABA, ICBA
183. Credit Card Savings Association – (H.R. 3505 § 216) The amendment would permit a savings and loan holding company to charter a credit card savings association and still be exempt from the activity restrictions imposed on multiple savings and loan holding companies. Under this proposal, a company could take advantage of the efficiencies of having its regulator be the same as the credit card institution's regulator.	Support: OTS No Position: FDIC, FRB, OCC	Support: ACB, FSR No Objection: ABA, ICBA
184. Diversity Jurisdiction Amendments to the National Bank Act and the Home Owners' Loan Act Amendments that would make National banks and Federal savings associations citizens of the state in which the institution maintains its home office and, if different therefrom, the state in which the association has its principal place of business.	Support: OTS ²⁴³ No Position: FDIC, FRB Does Not Support: OCC ²⁴⁴	Support: ABA, ACB, FSR, ICBA

²³⁵ The FRB does not believe this amendment is necessary or appropriate. The new interagency BSA/Anti-money Laundering Examination Manual published in June 2005 provides that, in the absence of bad faith, intentional misconduct, or significant problems of a systemic nature, financial institutions with appropriate anti-money laundering and SAR programs generally should neither be second-guessed nor penalized for failing to file a single SAR. The banking agencies and FinCEN have taken several steps to ensure that this policy is clearly communicated to banking organizations and consistently applied by the agencies.

²³⁶ The FSR supports. The Treasury Department should issue regulations to clarify that isolated incidents of SAR non-filings should not trigger enforcement actions against financial institutions that otherwise have satisfactory AML programs and make a good faith efforts to file SARs in accordance with the existing SAR regulations.

²³⁷ OTS supports, but only with parity for the savings association industry.

²³⁸ FDIC is working with the SEC and other banking agencies to develop a broker rule.

²³⁹ OCC is working with the SEC and other banking agencies to encourage the SEC to develop a broker rule that is consistent with Congressional intent to allow banks to continue to engage directly in traditional banking activities.

²⁴⁰ ACB supports as long as thrifts have parity under securities laws.

²⁴¹ OCC has no position (substantially included in § 505 of HR 3505).

²⁴² The FRB has concerns. Enactment of this proposal could create inequities if Congress does not also give banks the authority to branch de novo across state lines. So long as banks can not branch as widely as savings associations, organizations will have an incentive to use a savings association subsidiary to skirt the branching limits imposed on an affiliated bank. This would be particularly advantageous to commercial and other firms that own a savings association and an LLC because it would allow these companies to use their subsidiary savings association to effectively expand the geographic branch network of its subsidiary LLC nationwide.

²⁴³ OTS supports in light of recent Supreme Court decision regarding National Banks, OTS seeks parity and supports citizenship of home state only.

Proposing Agency or Organization Subject Matter (related bills, if known) Brief Summary of Proposal	Regulator's Position	Industry's & Consumer Group's Positions
Financial Services Roundtable (FSR) - continued		
185. Amend the "Anti-Tying" Provisions of the Bank Holding Company Act This amendment would limit the "anti-tying" restrictions imposed on banks prohibiting the offering or discounting of its products and services on the condition that a customer obtain additional products or services from the bank to those products and services offered by a bank to individual consumers and small businesses.	No Position: FDIC, FRB, OCC, OTS	Support: ABA, FSR No Objection: ICBA No Position: ACB Oppose: CG
186. CLA Assigned Liability Initiative Amends the definition of "lessor" in the TILA to limit liability to actual parties to a consumer lease agreement.	No Position: OCC, OTS Has Concerns: FRB ²⁴⁵ Oppose: FDIC	No Objection: ABA, ICBA No Position: ACB, FSR Oppose: CG
187. Clarification of Cross Marketing Provision – (H.R. 3505 § 501) (Same as #139) Provide that the cross-marketing prohibition applicable to financial holding companies and their merchant banking investments would apply only to entities <i>controlled</i> by a financial holding company. The current cross-marketing provision was enacted by GLBA to provide a safeguard against the mixing of banking and commerce. As a practical matter, this proposal would allow cross-marketing arrangements between depository institutions and non-financial companies when the shares of those companies are owned or controlled by a securities firm or its affiliate, because those are not merchant banking activities or between depository institutions and non-financial entities where the financial holding company does not <i>control</i> the entity in which it has a interest under merchant banking authority.	Support: FRB No Position: OCC, OTS Oppose: FDIC	Support: ABA, FSR No Position: ACB Oppose: CG, ICBA

²⁴⁴ The OCC does not support an amendment clarifying national banks' citizenship, since such an amendment is no longer needed. The U.S. Supreme Court has resolved the issues concerning national banks' citizenship for purposes of Federal-court diversity jurisdiction and a legislative amendment for national banks no longer is necessary. *See Wachovia Bank, N.A. v. Schmidt*, No. 04-1186, 546 U.S. _____ (Jan. 17, 2006).

²⁴⁵ The FRB has concerns. The proposed amendment would exclude persons who regularly offer or arrange consumer leases from the definition of "lessor" under the Consumer Leasing Act unless the person was a party to the actual lease agreement with the customer. The Consumer Leasing Act was adopted to ensure that consumers receive meaningful disclosures about the terms of consumer leases, especially those involving automobiles and other durable goods, and that the advertising for such leases is fair and not misleading. Because automobile leases typically are arranged by, and negotiated with, the dealer, the statute's definition of "lessor" was purposefully crafted broadly to include entities such as car dealers, who regularly arrange consumer lease transactions. Narrowing the definition of "lessor" in the way proposed would weaken consumer protections in leasing transactions and remove an important incentive that car dealers and other lease arrangers have to ensure that their advertising is fair and accurate.

KEY:

Regulators

CSBS – Conference of State Banking Supervisors
FDIC – Federal Deposit Insurance Corporation
FRB – Federal Reserve Board
NASCUS – National Association of State Credit Union Supervisors
NCUA – National Credit Union Administration
OCC – Office of Comptroller of the Currency

Industry

ABA – American Banking Association
ACB – America’s Community Bankers
CUNA – Credit Union National Association
FSR – Financial Services Roundtable
ICBA – Independent Community Bankers of America
NAFCU – National Association of Federal Credit Unions

Consumer Groups

CG – Consumer Groups (National Community Reinvestment Coalition, Consumer Federation of America, U.S. PIRG, National Association of Consumer Advocates, National Consumer Law Center, Consumer Union, Center for Responsible Lending)
CFOA – Consumer Federation of America
NCLC – National Consumer Law Center